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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/912,636	07/24/2001	Elliot Schwartz	Digi-P002	6340

40418 7590 03/28/2012
HEIMLICH LAW
5952 DIAL WAY
SAN JOSE, CA 95129

EXAMINER
VU, THONG H

ART UNIT	PAPER NUMBER
2159	

NOTIFICATION DATE	DELIVERY MODE
03/28/2012	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

alanheimlich@heimlichlaw.com
sroberts@peloquinlaw.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ELLIOT SCHWARTZ

Appeal 2009-006734
Application 09/912,636
Technology Center 2100

DECISION ON PETITON

Before DALE M. SHAW, *Division 2 Support Administrator.*

This is a Decision on the Petition entitled "Appellant's Rebuttal to Decision on Second Request Rehearing and Petition under § 41.3 seeking Supervisory Review", filed February 8, 2012 (Petition).

FINDINGS

1. On April 7, 2009, a Board of Patent Appeals and Interferences Docketing Notice was mailed to Appellant. The Docketing Notice gave the Application Appeal Number 2009-006734.

2. On September 26, 2011, a merits panel of the Board of Patent Appeals and Interferences (Board) rendered a Decision which affirmed all the rejections on Appeal.
3. On November 28, 2011 Appellant filed a Request for Rehearing.
4. On December 14, 2011, the Board Granted Appellant's Request for Rehearing, but maintained the affirmance of all claims on Appeal. The Decision did not give Appellant the option of filing a second Request for Rehearing.
5. On January 13, 2012, Appellant filed a second Request for Rehearing.
6. On February 8, 2012, a Division Support Administrator Denied the Second Request for Rehearing, based on 37 C.F.R. § 41.52(a)(1).
7. The Denial of the Second Request entered an erroneous statement that Appellant's second Request for Rehearing did not mention the fact that a first Request for Rehearing was filed and decided.
8. Appellant filed the instant Petition on February 8, 2012.
9. On February 9, 2012, Appellant filed a Request for Continued Examination.

DECISION

The filing of an RCE takes precedence over the rendering of a decision on the Petition and Rehearing Request. The MPEP in Section 706.07(h), subsection XI, states that:

> The filing of an RCE (accompanied by the fee and a submission) after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal

> Circuit (Federal Circuit) or the commencement of a civil action in federal district court, will also result in the finality of the rejection or action being withdrawn and the submission being considered.

Thus, the filing of the RCE renders the pending Petition and Request for Rehearing request moot.

DECISION

Accordingly, it is ordered that:

1) The Petition filed on February 8, 2012, is dismissed as being MOOT.

2) No decision on the rehearing request will be rendered; and

3) The application be returned to the Examiner for processing of the RCE, and for further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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In re Patent No.	6580320	:
Issue Date:	June 17,2003	
Application No.	09913367	:DECISION GRANTING PETITION
Filed:	November 30,2001	:UNDER 37 CFR 1.378(c)
Attorney Docket No.	46309/262010	:

This is a decision on the electronic petition, filed August 1,2011 ,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 August 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6580320	2003-06-17	09913367	2001-11-30	46309/262010

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

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

LOSS 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	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Steve Mendelsohn/	Date (YYYY-MM-DD)	2011-08-01
Name	Steve Mendelsohn	Registration Number	35951

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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COLLARD & ROE, P.C.
1077 NORTHERN BOULEVARD
ROSLYN NY 11576

MAILED

OCT 25 2011

OFFICE OF PETITIONS

In re Patent No. 6,622,457 :
Issued: 09/23/2003 :
Application No. 09/913,415 : NOTICE
Filed: 08/13/2001 :
Attorney Docket No. KURTH-4 (PCT) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 23, 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/27/10 **Paper No.:** ____

TO SPE OF : ART UNIT 2455

SUBJECT : Request for Certificate of Correction for Appl. No.: 9/913586 Patent No.: 7797456 B2

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

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

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: Please approved the request of the correction

TH

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO, CA 92101

Mail Date: 11/23/2010

Applicant	: Simon Armour	: DECISION ON REQUEST FOR
Patent Number	: 6963617	: RECALCULATION of PATENT
Issue Date	: 11/08/2005	: TERM ADJUSTMENT IN VIEW
Application No	: 09/913,840	: OF WYETH
Filed	: 02/11/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

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

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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)
6683390	2004-01-27	09914724	2001-09-04	

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	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6683390
Issue Date: January 27,2004
Application No. 09914724
Filed: September 4,2001
Attorney Docket No. 740670-266

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

This is a decision on the electronic petition, filed March 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year 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 23,2012 . 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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MAILED
SEP 27 2011
OFFICE OF PETITIONS

OHLANDT, GREELEY, RUGGIERO &
PERLE, LLP
ONE LANDMARK SQUARE, 10TH
FLOOR
STAMFORD CT 06901

In re Application	:
Weiner	:
Application No. 09/915,563	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: July 27, 2001	:
Dkt. No.: 0005843USU/4247	:

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 23, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 1190 days, not 1086 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant contests the reduction of 104 days in connection with the reply filed April 13, 2011. In this regard, applicant argues that the Notice of Non-Compliant Amendment mailed March 14, 2011 was erroneously issued, thus, applicant is not responsible for the 104 day reduction.

The application for patent term adjustment is DISMISSED.

Patentee's arguments have been considered but are not persuasive. A non-final Office action mailed September 30, 2010. A response thereto was filed December 30, 2010. Thereafter, a Notice of Non-Compliant Amendment was mailed March 14, 2011. A reply to the Notice of Non-Compliant Amendment was filed April 13, 2011, resulting in a reduction of 104 days in accordance with 37 CFR 1.704(c)(7).

The record of the above-identified patent indisputably establishes that a Notice of Non-Compliant Amendment was mailed to applicant on March 14, 2011. Unless expunged from the record (which is not warranted in this situation), for purposes of calculating patent term reduction, the Notice of Non-Compliant Amendment entered by the examiner on March 14, 2011, was properly used to determine the period of reduction under 37 CFR 1.704(c)(7). See, Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366 (Sept. 18, 2000) (final rule).

In view thereof, no adjustment to the patent term set forth in the Notice of Allowance will be made.

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of $200.00. See, 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO CA 92101

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Patent of Radin :
Patent No. 6,867,693 :
Issue Date: March 15, 2005 :
Application No. 09/915,662 :
Filing Date: July 25, 2001 :
Attorney Docket No. 112174-000000 :

DECISION ON REQUEST FOR CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION UNDER § 1.322" filed July 2, 2010, requesting correction of the patent term adjustment indicated in the patent. Patentee requests the patent term adjustment read "1,027 days" instead of 787 days.

The request is **DISMISSED**.

Patentee is given **THIRTY (30) DAYS** to respond to this decision. Extensions of time will NOT be granted under 37 C.F.R. § 1.136(a).

The patent issued on March 15, 2005. The patent indicated the patent term adjustment was 787 days.

The instant request for reconsideration was filed July 2, 2010.

During July 2010, the Office issued a notice in the federal register clarifying when the Office will change the patent term adjustment for a patent via issuance of a certificate of correction.[1] The Notice states,

> The USPTO ... has determined that it is not appropriate to provide a patent term adjustment recalculation via a certificate of correction under 35 U.S.C. 254 or 255. A certificate of correction is permissible under 35 U.S.C. 254 only for a mistake in a patent that "is clearly disclosed by the records of the Office." *See* 35 U.S.C. 254. While the applicable patent term adjustment is ascertainable from the records of the USPTO, a revised patent term adjustment determination requires a complex calculation that is not "clearly disclosed" by the records of the USPTO. In addition, a certificate of correction

[1] *Treatment of Letters Stating That the USPTO's Patent Term Adjustment Determination is Greater Than What the Applicant or Patentee Believes is Appropriate*, 75 Fed. Reg. 42079 (July 20, 2010).

> is permissible under 35 U.S.C. 255 only for "a mistake of a clerical or typographical nature, or of minor character." *See* 35 U.S.C. 255.
>
> Thus, the USPTO has long maintained that a request for a certificate of correction under either 35 U.S.C. 254 or 255 is not an appropriate venue for seeking a change to the patent term adjustment indicated on the patent....
>
> [I]t is not appropriate to issue a certificate of correction under 35 U.S.C. 254 or 255 to revise the patent term adjustment indicated in the patent unless it is being revised for consistency with: (1) The patent term adjustment determined via a decision on a request for reconsideration under 37 CFR 1.705; or (2) the total patent term adjustment indicated on the Patent Application Information Retrieval (PAIR) screen that displays the patent term adjustment for the patent....
>
> [T]he USPTO will not grant a request for a certificate of correction ... to revise the patent term adjustment indicated in the patent, except in the two situations discussed previously.[2]

Even if the number of days of patent term adjustment on a requested certificate of correction is less than the number of days listed on a patent, a certificate of correction will not be issued unless one of the previously identified exceptions exist. As stated by the Office, with emphasis added,

> If the applicant or patentee wants the USPTO to reconsider its patent term adjustment determination, the applicant must use the procedures set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination, whether the USPTO's patent term adjustment determination is greater <u>or less than</u> the adjustment that the applicant believes to be appropriate.[3]

Neither of the two exceptions discussed in the previously quoted language apply in this case. Therefore, the request for a certificate of correction listing a patent term adjustment of 1,027 days is dismissed.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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[2] Id. at 42079-42080.

[3] Id. at 42080.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7250292	2007-07-31	09916032	2001-07-26	074066-0105

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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 E. Reiter/	Date (YYYY-MM-DD)	2011-09-13
Name	Stephen E. Reiter	Registration Number	31192

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7250292
Issue Date: July 31,2007
Application No. 09916032
Filed: July 26,2001
Attorney Docket No. 074066-0100

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

This is a decision on the electronic petition, filed September 13,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 13,2011 . 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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OFFICE OF PETITIONS

CPA GLOBAL
2318 MILL RD
SUITE 12 FLOOR
ALEXANDRIA VA 22314

In re
Mollenauer
Application No. 09/916,356
Filed: July 27, 2001
Patent No. 6,616,654
Issued: September 9, 2003

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed November 2, 2011.

The fee deficiency submission under 37 CFR 1.28 of $1610 for the 7.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/916,420	07/27/2001	Hiroya Miyazaki	KAM 14.726B	9301

26304 7590 12/14/2010
KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER
HANSEN, COLBY M

ART UNIT	PAPER NUMBER
3682	

MAIL DATE	DELIVERY MODE
12/14/2010	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

DEC 1 3 2010

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

Application of:	MIYAZAKI ET AL.	:	
Patent No.:	6,524,011	:	**DECISION ON**
		:	**PETITION**
Filed:	JULY 27, 2001	:	**UNDER 37 CFR 1.324**
Application No.	09/916,420		
For:	ROLLING BEARING FOR	:	
	SUPPORTING VEHICLE	:	
	WHEEL	:	

This is a decision on the petition filed July 26, 2010 to correct inventorship under 37 CFR 1.324.

The petition is **Granted**.

A petition to correct inventorship as provided by 37 CFR 1.324 requires:

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

This renewed petition satisfies all of the items above, accordingly this renewed petition is granted. The patented file is being forwarded to Certificates of Corrections Branch for issuance of a certificate naming the actual inventors.

Any inquiry regarding this petition decision can be directed to Richard Ridley at (703) 272-6917.

Summary: Petition **GRANTED**.

Richard WL Ridley
Supervisory Patent Examiner, Art Unit 3656
(571) 272-6917

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. **6,524,011**
PATENTED **February 25, 2003**

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

- Hiroya Miyazaki
- Yoshihisa Ohnuki
- Takafumi Kuwano
- Hiroyuki Sawai

UNITED STATES PATENT AND TRADEMARK OFFICE

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KYOCERA INTERNATIONAL INC.
INTELLECTUAL PROPERY DEPARTMENT
P.O. BOX 928289
SAN DIEGO CA 92192

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,159,214	:	
Issue Date: 2 January, 2007	:	
Application Number: 09/916,460	:	
Filing Date: 26 July, 2001	:	ON PETITION
Attorney Docket No.: UTL 00103	:	

This is a decision on the petition filed on 8 July, 2010, improvidently pursuant to 37 C.F.R. §1.377 (which provides for the Office to accept and record a maintenance fee for the above-identified patent), but the petition instead seeks refund of fees improvidently paid as to another patent, and more properly considered pursuant to 37 C.F.R §1.182 and with consideration to the caution in the guidance provided in the Commentary at MPEP §503 and §607.02 as to the provisions of 37 C.F.R §1.26,.

> *NOTE: Petitioner has failed to make the substantive documentary showing and appears not to have satisfied the applicable Rules of Practice and the guidance in the Commentary in the Manual of Patent Examining Procedure.*

The petition pursuant to 37 C.F.R §1.182 is **DISMISSED**; the petition pursuant to 37 C.F.R §1.377 is **DISMISSED** as having been improvidently filed; the fees for these petitions have been charged as authorized to Deposit Account 50-3001.

A request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.182."

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

Patent No. 7,159,214
Application Number: 09/916,460

If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. An extension of this time limit may be requested pursuant to 37 C.F.R. §1.136(a). The petition for reconsideration shall include an exhaustive attempt to provide the lacking item(s) noted below

.

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

Petitioner has failed not only to satisfy the showing described above as to the requirements under the Rule, Petitioner mis-appreciates the Rule under which relief is properly sought.

It is noted that Petitioner did not include with the petition the required documentary showing, along with the required statement/declaration by person(s) having first-hand knowledge of the facts averred.

BACKGROUND

Petitioner alleged that her office sought to pay the maintenance fee on the instant patent (Patent No. 7,159,214), but paid instead the fee on Patent No. 7,154,214. Thereafter Petitioner sought refund from the Office of Finance, which referred Petitioner to the Office of Petitions.

Petitioner filed the instant petition, improvidently pursuant to 37 C.F.R. §1.377 (which provides for the Office to accept and record a maintenance fee for the above-identified patent), but, of course sought not to have fees accepted, as is the foundation of that Rule, but to obtain refund of fees improvidently paid as to another patent, and more properly considered pursuant to 37 C.F.R §1.182 and with consideration to the caution in the guidance provided in the Commentary at MPEP §503 and §607.02 as to the provisions of 37 C.F.R §1.26,.

ANALYSIS

The regulations at 37 C.F.R. §1.377 provide:

> **§ 1.377 Review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of patent.**
> (a) Any patentee who is dissatisfied with the refusal of the Patent and Trademark Office to accept and record a maintenance fee which was filed prior to the expiration of the patent may petition the Director to accept and record the maintenance fee.

(b) Any petition under this section must be filed within two months of the action complained of, or within such other time as may be set in the action complained of, and must be accompanied by the fee set forth in § 1.17(g). The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

(c) Any petition filed under this section must comply with the requirements of §1.181(b) and must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.
[49 FR 34725, Aug. 31, 1984, added effective Nov. 1, 1984; para. (c) revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (b) revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

The guidance in the Commentary at MPEP §2580 provides in pertinent part:

2580 Review of Decision Refusing to Accept and Record Payment of a Maintenance Fee Filed Prior to Expiration of Patent [R-5]

***

37 C.F.R. §1.377 provides a mechanism for review of a decision refusing to accept and record payment of a maintenance fee filed prior to the expiration of a patent. 37 C.F.R. §1.377(a) permits a patentee who is dissatisfied with the refusal of the Office to accept and record a maintenance fee which was filed prior to the expiration of the patent to petition the Director to accept and record the maintenance fee. This petition may be used, for example, in situations where an error is present in the identifying data required by 37 C.F.R. §1.366(c) with the maintenance fee payment, i.e., either the patent number or the application number is incorrect. See MPEP §2515 and §2530. A petition under 37 C.F.R. §1.377 would not be appropriate where there is a complete failure to include at least one correct mandatory identifier as required by 37 C.F.R. §1.366(c) for the patent since no evidence would be present as to the patent on which the maintenance fee was intended to be paid. If the maintenance fee payment with an incorrect mandatory identifier was made near the end of the grace period, the patent might expire since the Office would not credit the fee to the patent. A petition under 37 C.F.R. §1.377 would not be appropriate where the patentee paid a maintenance fee on one patent when the patentee intended to pay the maintenance fee on a different patent but through error identified the wrong patent number and application number. Likewise, a petition under 37 C.F.R. §1.377 would not be

> appropriate where the entire maintenance fee payment, including any necessary surcharge, was not filed prior to expiration of the patent.
>
> Any petition filed under 37 C.F.R. §1.377 must be filed within 2 months of the action complained of, or within such other time as may be set in the action complained of. The petition must be accompanied by the proper petition fee >(37 C.F.R. §1.17(g))<. The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to have resulted from an error by the Office.
>
> Any petition filed under 37 C.F.R. §1.377 must comply with the requirements of 37 C.F.R. §1.181(b) and must be signed by an attorney or agent registered to practice before the Office, or by the patentee, the assignee, or other party in interest. A person or organization whose only responsibility insofar as the patent is concerned is the payment of a maintenance fee is not a party in interest for purposes 37 C.F.R. §1.377. If the petition is signed by a person not registered to practice before the Office, the petition must indicate whether the person signing the petition is the patentee, assignee, or other party in interest. An assignee must comply with the requirements of 37 C.F.R. §3.73(b) which is discussed in MPEP §324.
>
> ***

Thus, the vehicle pursuant to which Petitioner sought relief is not the one proper for the relief which Petitioner seeks.

At the time the instant matter was filed, Congress directed and 35 U.S.C. ' 41 provided that the "Director shall charge" the fees set forth.

The Congressional statutory statement of the timing and structure of fees is a mandate, not a suggestion.[1]

Similarly the regulations at 37 C.F.R. ' 1.22 provide, *inter alia*:

> **' 1.22 Fees payable in advance.**
> (a) Patent fees and charges payable to the United States 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] AShall@ is the language of command. *Escoe v. Zerbst*, 295 U.S. 490, 55 S.Ct. 818, 79 L.Ed. 1566 (1935); *Boyden v. Commissioner of Patents*, 441 F. 2d 1041 (Ct. App. DC Cir. 1971).

> with the exception that under ' 1.53 applications for patent may be assigned a filing date without payment of the basic filing fee.
>
> * * *

The discussion of the charge of fees is set forth in the commentary at MPEP ' 601.01(a) states:

> * * *
>
> For applications filed on or after July 1, 2005, which have been accorded a filing date under 37 CFR 1.53(b) or (d), if any of the basic filing fee, the search fee, or the examination fee are paid on a date later than the filing date of the application, the surcharge under 37 CFR 1.16(f) is required.
>
> * * *

Petitioner's attentions also are directed to the caution in the guidance set forth in the Commentary at MPEP ' 503:

> ***
>
> Applications which are entitled to a filing date and are filed, whether by regular mail*>, by< "Express Mail" under 37 CFR 1.10, by hand-delivery>, by the Office's Electronic Filing System (EFS),< or otherwise, will not be returned to applicant even if requested. See 37 CFR 1.59. Accordingly, applicants must be careful not to file applications which are not intended to be filed, e.g., duplicates of applications already filed. Note that 37 CFR 1.26(a) provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee. See MPEP § 607.02. (Emphasis supplied)
>
> ***

Similarly the regulations at 37 C.F.R. ' 1.26 provide:

> **§ 1.26 Refunds.**
>
> (a)The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee. The Office will not refund amounts of twenty-five dollars or less unless a refund is specifically requested, and will not notify the payor of such amounts. If a party paying a fee or requesting a refund does not provide the banking information necessary for making refunds by electronic funds transfer (31 U.S.C. 3332 and 31 CFR part 208), or instruct the Office that refunds are to be credited to a deposit account, the Director may require such information, or use the banking information on the payment instrument to make a refund. Any refund of a fee

> paid by credit card will be by a credit to the credit card account to which the fee was charged.
>
> (b)Any request for refund must be filed within two years from the date the fee was paid, except as otherwise provided in this paragraph or in § 1.28(a). If the Office charges a deposit account by an amount other than an amount specifically indicated in an authorization (§ 1.25(b)), any request for refund based upon such charge must be filed within two years from the date of the deposit account statement indicating such charge, and include a copy of that deposit account statement. The time periods set forth in this paragraph are not extendable.
>
> (c)If the Director decides not to institute a reexamination proceeding, for *ex parte* reexaminations filed under § 1.510, a refund of $1,690 will be made to the reexamination requester. For *inter partes* reexaminations filed under § 1.913, a refund of $7,970 will be made to the reexamination requester. The reexamination requester should indicate the form in which any refund should be made (*e.g.*, by check, electronic funds transfer, credit to a deposit account, etc.). Generally, reexamination refunds will be issued in the form that the original payment was provided.

Similarly the guidance in the Commentary at MPEP ' 607.02 provides in pertinent part:

> When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is not a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).

Thus, when Petitioner paid the fee for another patent, and that fee was due at the time, Petitioner's designation was not a "fee paid by mistake within the meaning of 35 U.S.C. 42(d).

Petitioner, as one registered to practice before the office, is not unfamiliar with the statutory provisions, the regulations and the commentary cited above.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice <u>and</u> all others who make representations before the Office **must** inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

CONCLUSION

Petitioner has failed to the requirements herein.

Accordingly, the petition pursuant to 37 C.F.R §1.182 is **dismissed**; the petition pursuant to 37 C.F.R §1.377 is **dismissed** as improvident. As noted above, the petition fees have been charged as authorized.

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

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

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

Patent No. 7,159,214
Application Number: 09/916,460

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. §1.2[3]) 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

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7028855
Issue Date: April 18,2006
Application No. 09916725
Filed: July 26,2001
Attorney Docket No. A-69861/ENB

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

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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7,028,855	2006-04-18	09/916,725	2001-07-26	A-69861 (468924-2)

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under 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	/37085/	Date (YYYY-MM-DD)	2010-12-01
Name	Edward N. Bachand, Esq.	Registration Number	37085

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MONTGOMERY K. FISHER
12703 ARDENNES AVENUE
ROCKVILLE MD 20851-1903

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,513,211	:	
Issue Date: February 04, 2003	:	
Application No. 09/916,834	:	DECISION ON PETITION
Filed: July 28, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 25, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 04, 2011 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6680257
Issue Date: January 20,2004
Application No. 09916877
Filed: July 30,2001
Attorney Docket No. 01B-2038

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

This is a decision on the electronic petition, filed March 29,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year 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 29,2012 .
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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,680,257	2004-01-20	09/916,877	2001-07-30	20010218-0002

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under 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	/Peter Su/	Date (YYYY-MM-DD)	2012-03-29
Name	Peter Su	Registration Number	43939

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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DIW Sep-11

MATTHEW F. JODZIEWICZ, ESQ.
SUITE 836
3660 WILSHIRE BOULEVARD
LOS ANGELES CA 90010

MAILED

SEP 07 2011

OFFICE OF PETITIONS

In re Patent No. 6,568,677	:	
Issue Date: 05/27/2003	:	
Application Number: 09/916,899	:	ON PETITION
Filing Date: 07/26/2001	:	
For: POKER GAME USING TOSSED BALLS	:	

This is a decision is in response to the petition under 37 CFR 1.378(b), filed on July 18, 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(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 on May 27, 2003. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from May 27 through November 29, 2010, or, with a surcharge during the period from November 30, 2010 through May 27, 2011. Accordingly, this patent expired at midnight on May 27, 2011, 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 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.

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

In regards to item (2), the surcharge required by § 1.20(i)(1) is $700.00. Petitioners, however, have submitted $270.00, as well as the $65.00 surcharge for late payment within 6 months. While the surcharge of $65.00 for late payment within 6 months is not required after the expiration of the patent, the petition cannot be granted in the absence of the $700.00 surcharge required by § 1.20(i)(1).

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

Petitioner, Julius Tabach, President of assignee of record The Original Products Company states, in pertinent part:

> Assignee of this Patent No. 6,568,677, The Original Products Company, L.L.C. had forwarded at least as early as May 1,2011, well prior to the expiration of the Patent, the proper maintenance fee payment to the Patent Inventor, Max Brenner, for timely payment. Unfortunately, the Inventor, Mr. Brenner, died before he was able to send the maintenance payment. Upon

> receiving notice of his death, Assignee contacted his estate and began to research among the deceased's papers and accounts to determine whether the maintenance payment was made. Upon determining that the payment was not made as thought, Assignee immediately forwarded the payment directly to the Patent Office itself, depositing same with the US Post Office on May 27, 2011, the due date for the maintenance payment. Copies of the checks dated May 27, 2011 are attached. As the enclosed photocopy of the Notice of Non-Acceptance of Patent Maintenance Fee shows, the maintenance payment was received by the Patent Office on June 1,2011, the Patent Office Accounting Division on June 3,2011, and deposited into US Bank on June 6, 2011 by the Patent Office's Gov't LBX Operations. Subsequently, on or about June 15, 2011, Assignee received a Notice of Non-Acceptance of Patent Maintenance Fee Dated June 9, 2011.

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".[1]

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

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[1] 35 U.S.C. § 41(c)(1).

[2] 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)).

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

> 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.[4]

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. ' 133 because 35 U.S.C. § 41(c)(1) uses the identical language, *i.e.*, "unavoidable" delay.[5] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[6] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[7] 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.[8]

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some

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

[5] 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)).

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

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

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.[9] 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 second maintenance fee for this patent.[10]

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable.[11] 35 U.S.C. § 133 does not require the Director to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing. Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.[12]

A review of Office records reveals that the inventor assigned his entire right, title, and interest in the invention to assignee The Original Products Company, LLC ("hereinafter OPC"). Petitioners state, however, that they sent the maintenance fee payment to Brenner for transmission to the USPTO. Petitioners further state that Brenner died before he was able to send the maintenance fee payment to the USPTO.

The showing of record is inadequate to establish unavoidable delay. At the outset, petitioners must establish the date that Brenner died. In this regard, it is unclear whether Brenner died before or after receiving payment of the maintenance fee funds from petitioners. Petitioners must explain whether or not, if Brenner was alive at the time he received the maintenance fee payment, and whether he cashed the check sent by petitioners to him. As petitioners state that they received notice of Brenner's death, said notice should be provided with any renewed petition. Further, petitioners should inquire as to whether Brenner had

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[9] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.
[10] Id.
[11] See Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).
[12] See 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); Ray v. Lehman, supra.

informed any relatives or business associates of the need to submit the maintenance fee to the USPTO. Statements of facts or affidavits of any persons having first hand knowledge of Brenner's receipt of the maintenance fee and whether he attempted to send it to the USPTO prior to his death must be provided with any renewed petition.

A copy of the payment sent to Brenner and the cover letter asking him to submit the maintenance fee to the USPTO must be provided with any renewed petition.

Still further, petitioners state that "at least as early as May 1, 2011, well prior to the expiration of the Patent, the proper maintenance fee payment to the Patent Inventor."

However, given that the patent would expire less than one (1) month from May 1, 2011, it is arguable whether petitioners sent the payment to Brenner in sufficient time for him to receive it and prepare submission of the maintenance fee to the USPTO. Petitioners must state whether or not they contacted Brenner, by mail, email or telephone, prior to sending the maintenance fee to him, and whether he agreed that he would (or was even able to) send the maintenance fee to the USPTO prior to the expiration of the patent.

In summary, the showing of record is that petitioners did not verify that Brenner would be able to submit the maintenance fee payment to the USPTO prior to the due date. Further, petitioners have not shown that the proper amount was sent to Brenner, to pay the maintenance fee. Furthermore, petitioners have not shown that they contacted Brenner after sending the maintenance fee to verify that he had received it, and had agreed to send the maintenance fee to the USPTO, prior to his death.

Further, while petitioner states that two checks totaling $1,304.00 ($652.00 each) were sent to the USPTO, the Notice of Non-Acceptance of Patent Maintenance Fee mailed on June 9, 2011, however, indicates that only $652.00 (one (1) check) was received. As such, the showing of record is that only one of the two maintenance fee checks was actually received at the USPTO. Receipt of only one check, totaling $652.00, would not constitute a timely proffer of the maintenance fee as the amount of the check is insufficient to cover the amount due for the second maintenance fee.

With regard to the payment petitioners sent to the USPTO upon learning that Brenner had died, it is noted that petitioners

state that two checks, for $652.00 each, for the maintenance fee were mailed to the USPTO on May 27, 2011. May 27, 2011 was the date the six month "grace period" for payment of the maintenance fee ended. The date the six month grace period ends becomes the expiration date of the above-identified patent if the required amount for paying the maintenance fee is not filed in the USPTO by that date. See 37 CFR 1.362(g). However, the payment was not received until June 1, 2011, which is after the date the patent expired.

37 CFR 1.8(b) states:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The showing of record, unfortunately, is that petitioner did not use the procedure set forth in 37 CFR 1.8(b) in filing the maintenance fee payment, as no transmittal letter or other correspondence sent with the payment, including a proper Certificate of Mailing showing that the payment was deposited in first-class mail on May 27, 2011, has been provided.

Furthermore, MPEP 503 states, in pertinent part:

> If a receipt for any item (*e.g.*, paper or fee) filed in the USPTO is desired, it may be obtained by enclosing

> with the paper a self-addressed postcard specifically identifying the item.…
>
> The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.
>
> The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, *e.g.*, new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted.
>
> The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (*e.g.*, specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (*e.g.*, pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO.

Likewise, it appears that petitioner did not avail himself of the protections set forth in MPEP 503 by filing an itemized return receipt postcard with the two checks showing that the amount due of $1,304.00 ($1,240.00 for the maintenance fee (small entity) and $65.00 for the surcharge (small entity)) was timely filed in the USPTO. As such, the showing of record is that only one of the checks, for $652.00, was received at the USPTO. Due to the absence in the record of a postcard receipt itemized with respect to both checks for $652.00 that bears a USPTO date stamp, showing that both checks were timely filed, petitioner simply has no

proof that the maintenance fee and surcharge were timely filed on May 27, 2011.

The failure to file the maintenance fee in accordance with 37 CFR 1.8(a) and MPEP 502 is an avoidable mistake, rather than unavoidable delay. 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.[13]

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.[14]

While the Office is mindful of the unfortunate circumstances surrounding this petition, in the absence of a showing that steps were taken to ensure the timely payment of the maintenance fee, the Office is precluded from providing the relief requested by petitioner.

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 Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The address contained in the petition is different than the correspondence address. A copy of this decision will be mailed to the address in the petition. All future correspondence will be mailed solely to the address of record. Petitioners may wish to file a change of correspondence address if the correspondence address is to be changed.

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

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[13] 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).

[14] See note 4, supra.

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 amount of $335.00 (270.00 + 65.00) already paid may be credited thereto leaving a balance due of $1305.00) 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.

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).

Patentee has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with a patentee and patentee's attorney or agent will not be undertaken. Accordingly, patentee is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be 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 must 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 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

A reply may also be filed via EFS-Web.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: JULIUS TABACH
PRESIDENT, THE ORIGINAL PRODUCTS COMPANY
10102 EMPRYEAN WAY, NO. 201
LOS ANGELES, CA 90067

Encl: PTO/SB/66
PTO/SB/96
PTO/SB/123

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-11

Paper No. 8

MATTHEW F. JODZIEWICZ, ESQ.
SUITE 836
3660 WILSHIRE BOULEVARD
LOS ANGELES CA 90010

MAILED

OCT 18 2011

OFFICE OF PETITIONS

In re Patent No. 6,568,677	:	
Issue Date: 05/27/2003	:	
Application Number: 09/916,899	:	LETTER
Filing Date: 07/26/2001	:	
For: POKER GAME USING TOSSED BALLS	:	

This is a decision is in response to the paper styled as a request for reconsideration, filed on October 11, 2011.

The petition is **dismissed** for the reasons stated.

The patent issued on May 27, 2003. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from May 27 through November 29, 2010, or, with a surcharge during the period from November 30, 2010 through May 27, 2011. Accordingly, this patent expired at midnight on May 27, 2011, for failure to timely remit the maintenance fee. On July 18, 2011, a petition under 37 CFR 1.378(b) was filed. On September 7, 2011, the petition was dismissed.

Petitioner was informed in the decision mailed on September 7, 2011, that if reconsideration of the decision was desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of the decision mailed on September 7, 2011. 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 subject letter, however, was not accompanied by the required fee of $400.00. In the absence of said fee, the Office is unable to reconsider the decision of September 7, 2011.

While the Office is mindful of petitioner's circumstances as set forth in the letter filed on October 11, 2011, the patent laws and regulations nevertheless require payment of the $400.00. As the fee has not been paid, the petition cannot be considered. 37 CFR 1.22(a).

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 Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioner's request.

The address contained in the petition is different than the correspondence address. A copy of this decision will be mailed to the address in the petition. All future correspondence will be mailed solely to the address of record. Petitioners may wish to file a change of correspondence address if the correspondence address is to be changed.

ALTERNATIVE VENUE

Petitioner may wish, nevertheless, 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 amount of $335.00 (270.00 + 65.00) already paid may be credited thereto leaving a balance due of $1305.00) 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.

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).

Patentee has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with a patentee and patentee's attorney or agent will not be undertaken. Accordingly, patentee is required to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33.

The address in the petition is different than the correspondence address. A courtesy copy of this decision will be 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 must 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 Petition
Commissioner for Patents
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Attn: Office of Petitions

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

The file is returned to Files Repository.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: JULIUS TABACH
PRESIDENT, THE ORIGINAL PRODUCTS COMPANY
10102 EMPRYEAN WAY, NO. 201
LOS ANGELES, CA 90067

Encl: PTO/SB/66
PTO/SB/96
PTO/SB/123

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6568677
Issue Date: May 27,2003
Application No. 09916899
Filed: July 26,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed November 10,2011 ,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 November 10,2011 . 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6568677	2003-05-27	09916899	2001-07-26	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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 Schuler/	Date (YYYY-MM-DD)	2011-11-10
Name	Robert C. Schuler	Registration Number	51036

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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DIW Nov-11

ROBERT SCHULER
45 GROTON ROAD
SHIRLEY MA 01464

MAILED
NOV 16 2011
OFFICE OF PETITIONS

In re Patent No. 6,568,677	:	
Issue Date: 05/27/2003	:	
Application Number: 09/916,899	:	LETTER
Filing Date: 07/26/2001	:	
For: POKER GAME USING TOSSED BALLS	:	

This is a decision is in response to the paper styled as a request for reconsideration, filed on October 31, 2011.

The petition is **dismissed** as moot.

The patent issued on May 27, 2003. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from May 27 through November 29, 2010, or, with a surcharge during the period from November 30, 2010 through May 27, 2011. Accordingly, this patent expired at midnight on May 27, 2011, for failure to timely remit the maintenance fee. On July 18, 2011, a petition under 37 CFR 1.378(b) was filed. On September 7, 2011, the petition was dismissed. On October 11, 2011, a paper styled as a renewed petition was filed. On October 18, 2011, a letter dismissing the petition was mailed.

On October 31, 2011, the subject petition paper was filed.

On November 10, 2011, a petition under 37 CFR 1.378(c) was filed. Also on November 10, 2011, a decision granting the petition under 37 CFR 1.378(c) was mailed.

In view of the subsequent decision granting the petition under 37 CFR 1.378(c), a petition under 37 CFR 1.378(b) is unnecessary. The subject letter is therefore dismissed as moot.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: JULIUS TABACH
PRESIDENT, THE ORIGINAL PRODUCTS COMPANY
10102 EMPRYEAN WAY, NO. 201
LOS ANGELES, CA 90067

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
OCT 12 2011
OFFICE OF PETITIONS

GREENBERG TRAURIG (NY)
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

In re Application of	:	
Fergusson et al.	:	
Application No. 09/916951	:	
Filing or 371(c) Date: 07/27/2001	:	ON PETITION
Pat. Num.: 7349865	:	
Issue Date: 03/25/2008	:	
Title of Invention:	:	
METHODS AND SYSTEMS FOR	:	
MONITORING THE EFFICACY OF A	:	
MARKETING PROJECT	:	

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.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,245	07/27/2001	Anthony A. Anthony	X2YA0110U-US-C1	1822

92864 7590 03/26/2012
Kenneth C. Spafford
708 Smithson Avenue
Erie, PA 16511

EXAMINER
JACKSON, STEPHEN W

ART UNIT	PAPER NUMBER
2836	

NOTIFICATION DATE	DELIVERY MODE
03/26/2012	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

kspafford@spaffordlaw.com
spaffordlaw@gmail.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 26 2012

In re Patent No. 6,594,128 B2 Issue Date: July 15, 2003 Appl No.: 09/917,245 Filed: July 27, 2001 For: PAIRED MULTI-LAYERED DIELECTRIC INDEPENDENT PASSIVE COMPONENT ARCHITECTURE RESULTING IN DIFFERENTIAL AND COMMON MODE FILTERING WITH SURGE PROTECTION IN ONE INTEGRATED PACKAGE	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed January 05, 2012 to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

/Jared Fureman/
Jared Fureman
Supervisory Patent Examiner
Art Unit 2836
Technology Center 2800

Kenneth C. Spafford
708 Smithson Avenue
Erie, PA 16511

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Application of	:	
Barry W. Townsend et al.	:	
Application No. 09/917,660	:	DECISION ON REQUEST FOR REFUND
Filed: July 31, 2001	:	
Attorney Docket No. 183.39210PX1	:	

This is a decision on the Request For Refund filed October 19, 2011.

The request is **DISMISSED**.

Applicant filed the above request for refund and states that ".... After filing the Maintenance Fee, Applicant realized this application was small entity. Please refund the $530.00 excess fee paid to the Deposit Account No. 01-2135 (Ref. 183.39210PX1)."

A review of Office finance records indicates that the maintenance fee was paid on June 2, 2008. However, the request for refund is not in compliance with 37 CFR 1.26(b), which states that:

> "Any request for refund must be filed within two years from the date the fee was paid, accept as otherwise provided in this paragraph or in § 1.28(a). ...."

In view of the above, the request for refund is dismissed.

Further, small entity status has been accorded per the request entitled "CHANGE OF ENTITY STATUS" submitted on October 19, 2011.

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
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ARTHUR G. YEAGER, P.A.
SUITE 1305
112 WEST ADAMS STREET
JACKSONVILLE FL 32202-3853

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,502,361	:	
Issued: January 7, 2003	:	
Application No. 09/918,236	:	ON PETITION
Filed: July 30, 2001	:	
Attorney Docket No. D-7322	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 23, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 8, 2011 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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 A. Hills, Sr.
245-East Adams Street, Suite 1
Jacksonville, FL 32202-3365

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/07/10

TO SPE OF : ART UNIT 2464

SUBJECT : Request for Certificate of Correction for Appl. No.: 09918931 Patent No.: 7646782

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
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.

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

Comments: _____

/Ricky Ngo/
SPE

24624
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

SEP 08 2011

OFFICE OF PETITIONS

In re Application of

Robert Goldman
Application No. 09/919,644
Filed: September 18, 2001
Attorney Docket No. 4444.2430000

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 August 24, 2011.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the request was filed after the application was abandoned.

All future communications from the Office will continue to be directed to the address of record until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MR. RON MOORE
C/O MARGOLDE, LLC
227 BELLEVUE WAY NE #521
BELLEVUE, WA 98004

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,622,349	2003-09-23	09/920,015	2001-08-02	H1093-37-6-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	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/George G. Wang/	Date (YYYY-MM-DD)	2012-01-19
Name	George G. Wang	Registration Number	41419

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6622349
Issue Date: September 23,2003
Application No. 09920015
Filed: August 2,2001
Attorney Docket No. H1093-37-6-US

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

This is a decision on the electronic petition, filed January 25,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 25,2012 . 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

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

DAVID FONDA
DAVID B. FONDA, ATTORNEY AT LAW,P.C.
11129 SOUTH CREEK RIDGE CIRCLE
SOUTH JORDAN UT 84095

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	
Forest S. Baker IV	:	
Application No. 09/920,072	:	DECISION ON PETITION
Filed: August 1, 2001	:	
Attorney Docket No. 2866.2.1	:	

This is a decision on the petition, filed July 2, 2010, under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue fee on or before May 26, 2010, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed February 26, 2010.

Petitioner asserts that the Notice dated February 26, 2010 was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and

3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

This application is being referred to the Technology Center AU 2614 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of February 26, 2010. The period for paying the issue fee will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/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

MAILED
SEP 27 2011
OFFICE OF PETITIONS

Stoll, Stoll & Hoffman
1350 Broadway Suite 802
NEW YORK NY 10018

In re Patent No. 7,233,312 :
Issue Date: June 19, 2007 : ON PETITION
Application No. 09/920,337 :
Filed: July 31, 2001 :

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 application.

The petition is **GRANTED**.

The patent expired on June 20, 2011 for failure to pay the four 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).

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 mailing date of this decision.

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

for Rajesh Krishnamurthy

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE NC 28280-4000

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of	:	
Brian Davidson et al.	:	DECISION ON PETITION
Application No. 09/920,888	:	TO WITHDRAW
Filed: August 3, 2001	:	FROM RECORD
Attorney Docket No. **042933/302185**	:	

This is a decision on the renewed request to withdraw as attorney of record under 37 CFR § 1.36(b), filed July 22, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond , pursuant to 37 CFR 10.40.

The request was signed by Chad L. Thorson on behalf of all attorneys of record who are associated with Customer Number 00826.

All attorneys/agents associated with Customer Number 00826 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee Nokia Corporation at the address list listed in the request.

There is an outstanding Office action mailed June 2, 2010, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Nokia Corporation
Keilalahdentie 4
Espoo, Finland FIN-02150

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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PRICE HENEVELD COOPER
DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Gont, et al.	:	
Patent No. 7,013,028	:	DECISION
Issue Date: 14 March, 2006	:	
Application No. 09/920,937	:	
Filed: 3 August, 2001	:	
Attorney Docket No. 03/71-52942	:	

This is a decision on the petition filed on 14 May, 2010, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released and returned to Files Repository.

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

Patent No. 7,013,028
Application No. 09/920,937

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LTDNETWORK PTY.
C/O J. CHRISTOPHER ROE
211 MADISON AVENUE #28B
NEW YORK, NY 10016

In re Application of	:	
KILLMER	:	
Application No. 09/921,003	:	DECISION ON REQUEST FOR
Filed: August 1, 2001	:	REVOCATION OF POWER
Attorney Docket No.	:	OF ATTORNEY
	:	

This is a decision on the Request to Revoke the attorney or agent of record under 37 C.F.R. § 1.36(a), filed June 12, 2011.

The request is **NOT APPROVED**.

A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceeding of a case by an applicant for patent (§ 1.41(b)) or an assignee of the entire interest of the applicant under § 3.71(b). Fewer than all of the applicants (or by fewer than the assignee of the entire interest of the applicant) may only revoke the power of attorney upon a showing of sufficient cause, and payment of the petition fee set forth § 1.17(h).

The Power of Attorney cannot be approved because the Statement under § 3.73(b) does not include a proper chain of title.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwy/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: LAW OFFICE OF SCOTT HARRIS, INC.
P.O. BOX 1389
RANCHO SANTA FE, CA 92067

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: RE39683

DATED: July 07, 2011

INVENTOR(S): James M. Cisar

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

The present reissue patent issued from an application that is one of a family of continuation reissue applications resulting from Patent No. 5931873. The present reissue patent has issued without the cross reference to the other reissue application(s) of the family which is required pursuant to 37 CFR 1.177(a). Accordingly, insert in the first sentence of the specification as follows:

Notice: More than one reissue application has been filed for the reissue of patent 5,931,873. The reissue applications are 09/921,103 and 10/968,820

/Thomas G. Black/
Supervisory Patent Examiner
Art Unit 3661

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3-30-11 **Paper No.**: _____

TO SPE OF : ART UNIT 2491

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/921,167 Patent No.: 7209950

CofC mailroom date: 3-8-11

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

FOR IFW FILES: Should CofC be approved

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

Ennis Young
Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: _____

/ASHOK B. PATEL/ — **SPE**

2491 — **Art Unit**

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6481175	2002-11-19	09921289	2001-08-03	C1290/20007

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Martin L. Faigus/	Date (YYYY-MM-DD)	2011-03-11
Name	Martin L. Faigus	Registration Number	24364

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6481175
Issue Date: November 19,2002
Application No. 09921289
Filed: August 3,2001
Attorney Docket No. 5047

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

This is a decision on the electronic petition, filed March 11,2011 ,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 March 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
www.uspto.gov

PROSKAUER ROSE, LLP
ONE INTERNATIONAL PLACE
BOSTON, MA 02110

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Patent No. 7,617,116	:	
Issue Date: November 10, 2009	:	
Application No. 09/921,654	:	NOTICE
Filed: August 3, 2001	:	
Patentee(s): Anshul Amar, et. al.	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on April 19, 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 and any future fee(s) submitted must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7216179	2007-05-08	09/922,127	2001-08-03	111785.122 US2

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Victor F. Souto/	Date (YYYY-MM-DD)	2011-06-20
Name	Victor F. Souto	Registration Number	33458

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7216179
Issue Date: May 8,2007
Application No. 09922127
Filed: August 3,2001
Attorney Docket No. 111785.122 US2

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

This is a decision on the electronic petition, filed June 20,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of :
Desai, et al. :
Application No. 09/922,128 : DECISION ON PETITIONS
Filed: August 3, 2001 :
Attorney Docket No. 0084495-004US6 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 17, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional application(s). This is also a decision on the petition under 37 CFR 1.137(b) also filed June 17, 2011.

DECISION UNDER 37 CFR 1.78(a)(3)

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant petition is not accompanied by an amendment to the specification setting forth the desired claim. Therefore, a proper reference under 37 CFR 1.78(a)(2)(i) has not been provided. In this regard, the referenced claim is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

The amendment submitted herewith is not acceptable as the amendment is encompassed within the petition. The amendment to the specification **MUST** commence on a separate sheet and cannot be contained within the petition.

Before the petition can be granted, petitioner must submit an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

The application data sheet referenced in the petition **does not** appear to have been received.

DECISION UNDER 37 CFR 1.137(b)

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

The application became abandoned June 1, 2003 for failure to timely submit a proper reply to the final Office action mailed December 31, 2002. The final Office action set a three month shortened statutory period of time for reply. A two month extension of time pursuant to 37 CFR 1.136(a) was timely procured. Notice of Abandonment was mailed August 12, 2003.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition fails to comply with requirement (1) set forth above. No proper reply to the final Office act ion has been submitted. A petition under 37 CFR 1.78 is not a proper reply to a final Office action. A proper reply may consist of a request for continued examination, a notice of appeal, a continuation application, or an amendment that prima facie places the application in condition for allowance.

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

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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 Petitions Attorney Alesia M. Brown at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
JAN 30 2012
OFFICE OF PETITIONS

DAVIS WRIGHT TREMAINE LLP - San Francisco
505 MONTGOMERY STREET
SUITE 800
SAN FRANCISCO CA 94111

In re Application of	:	
Desai, et al.	:	
Application No. 09/922,128	:	DECISION ON PETITION
Filed: August 3, 2001	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 0084495-004US6	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 20, 2012, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed non-provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1)

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A

benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See, MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable. Specific reference is made to U.S. App. No. 08/482,936 which the record reflects was filed as a continuation, and not of continuation in part, of U.S. App. No. 07/726,035

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)), which states the relationship of the prior-filed application to this application, are required.

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

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

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

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

Any questions concerning this matter may be directed to 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THE WEBB LAW FIRM, P.C.
436 SEVENTH AVENUE
700 KOPPERS BUILDING
PITTSBURGH PA 15222

MAILED
SEP 23 2011
OFFICE OF PETITIONS

In re Application of:	:	
Carnall et al.	:	
Application No. 09/922496	:	DECISION ON
Filing or 371(c) Date: 08/03/2001	:	PETITION
Title of Invention:	:	
KARABINERS	:	

This Decision is in response to the Petition to Correct Inventorship in a Nonprovisional Patent Application Under 37 CFR § 1.48(a)," filed April 6, 2009. The petition is properly treated under 37 CFR 1.182.[1]

The petition Under 37 CFR § 1.48 is **granted**.

Applicant asserted that through error, and without deceptive intent, inventor Kevin Brown was inadvertently omitted as an inventor of the present application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.48(a).

Office records have been corrected to reflect the addition of inventor Kevin Brown.

A Corrected Filing Receipt identifying the inventorship of the application is enclosed.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

[1] Office records reveal that the present application is abandoned, and correction of inventorship in an abandoned application is a situation not otherwise provided for in the Rules. Accordingly, the petition is properly treated under 37 CFR 1.182.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/922,496	08/03/2001	3677	760	3265-011266	28	3

CONFIRMATION NO. 7333

CORRECTED FILING RECEIPT

28289
THE WEBB LAW FIRM, P.C.
ONE GATEWAY CENTER
420 FT. DUQUESNE BLVD, SUITE 1200
PITTSBURGH, PA 15222

OC000000049971350

Date Mailed: 09/22/2011

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)

Mark Carnall, Bedminster, UNITED KINGDOM;
Kevin Brown, Cheshire, UNITED KINGDOM;

Assignment For Published Patent Application

DMM Engineering Ltd., Llanberis, UNITED KINGDOM

Power of Attorney:

Frederick Ziesenheim--19438
William Logsdon--22132
David Hanson--23024
Russell Orkin--25363
Kent Baldauf--25826
Richard Byrne--28498
Michael Shamos--30424
Barbara Johnson--31198
Paul Reznick--33059
James Porcelli--33757

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.)
UNITED KINGDOM 0019136.1 08/04/2000

If Required, Foreign Filing License Granted: 09/07/2001
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/922,496**
Projected Publication Date: Not Applicable
Non-Publication Request: No
Early Publication Request: No
**** SMALL ENTITY ****

Title

Karabiners

Preliminary Class

024

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN HOLMAN
JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON, DC 20004

MAILED

AUG 22 2011

OFFICE OF PETITIONS

In re Patent No. 6,735,835
Issue Date: May 18, 2004
Application No. 09/922,524
Filed: August 3, 2001
Title: METHOD AND APPARATUS FOR MANUFACTURING NON-WOVEN FABRICS

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed August 1, 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 John C. Holman was ever empowered to prosecute the application. Moreover, there is no indication that petitioner filed a change of address in this case. If the practitioner or patent owner 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, this Notice will be sent to the address listed on the petition. However, correspondence will continue to be sent to the address of record in the patent file unless the Office is notified otherwise.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Cc: IPSOLON LLP
111 SW COLUMBIA
SUITE 710
PORTLAND OR 97201

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111220

DATE : December 20, 2011

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction on Patent No.: 6,645,318

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:

The error to be corrected appears in patent as a result from Applicant's translation error in paragraph [0035] of priorty document JP 2001-231870, and occurred in good faith. The correction does not involve changes in the patent so as to represent new matter or to require reexamination or change the scope or meaning of the claims.

SPE: Jessica Ward 12/21/11
AU: 1735

UNITED STATES 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
FEB 14 2011
OFFICE OF PETITIONS

FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

In re Patent No. 7,661,590	: DECISION ON REQUEST
Gatto	: FOR
Issue Date: February 16, 2010	: RECONSIDERATION OF
Application No. 09/922,935	: PATENT TERM ADJUSTMENT
Filed: August 7, 2001	: and
Atty Docket No. **94512**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on June 16, 2010, which requests reconsideration of the "Decision on Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" mailed May 18, 2010, and recalculation of the patent term adjustment.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by seven hundred and fifty-three (753) days is **GRANTED.**

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days,** whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by seven hundred and fifty-three (753) days.

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,661,590 B1

DATED : Feb. 16, 2010

INVENTOR(S) : Gatto

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1200) days

Delete the phrase "by 1200 days" and insert – by 753 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 6,538,340	:	
Issue Date: March 25, 2003	:	
Application No. 09/923,043	:	ON PETITION
Filed: August 06, 2001	:	
Attorney Docket No. 5714-2	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 05, 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 items **2 and 3** above.

The petition was submitted with a payment of $1,400.00. However, the required fee's for the seven and one-half year maintenance fee is $1,240.00 (small entity) and $1,640.00 for the late surcharge after expiration.. No consideration on the merits can be given that petition until the required fees are received.

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

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

By hand: 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 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **DILLYN M. ELDER**
1513 EAST LAKE ST.
FORT COLLINS, CO 80524

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MR. DILLYN M. ELDER
1513 EAST LAKE STREET
FORT COLLINS, CO 80524

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 6,538,340	:	
Issue Date: March 25, 2003	:	
Application No. 09/923,043	:	DECISION ON PETITION
Filed: August 06, 2001	:	
Attorney Docket No.	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed August 04, 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 25, 2011 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The power of attorney filed with the petition on August 04, 2011 has been accepted and made of record.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FOX ROTHSCHILD LLP
PRINCETON PIKE CORPORATE CENTER
997 LENOX DRIVE
BLDG. #3
LAWRENCEVILLE NJ 08648

MAILED
JAN 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Nicholas Frattalone	:	
Application No. 09/923,161	:	DECISION ON PETITION
Filed: August 6, 2001	:	
Attorney Docket No. **32958.00007**	:	

This is a decision on the petition, filed November 22, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the non-final Office action of March 17, 2010, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 24, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Request for Continued Examination (RCE)) was received by the office on September 17, 2010, with a three (3) month extension of time by way of the Office Electronic Filing System (EFS). A review of the application file record confirms the receipt by way of EFS of this reply with the fees for a three (3) month extension of time, on September 17, 2010. However, a RCE is not a proper reply as the Office action was a non-final Office action. However, the amendment filed with the RCE on September 17, 2010, will be accepted as the response to the non-final Office action. Thus, the application is not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby **VACATED** and the holding of abandonment **WITHDRAWN**.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to Technology Center AU 3693 for appropriate action in the normal course of business on the reply received September 17, 2010.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110405

DATE : April 5, 2011

TO SPE OF : ART UNIT 3627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,908,218

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

All changes approved.

SPE: /F. Ryan Zeender/ **Art Unit** 3627

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/29/11

TO SPE OF : ART UNIT 3627

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/923,618 Patent No. 7,908,218

CofC mailroom date 3/23/11

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

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

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

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

Comments: All changes approved.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/F. Zeender/

SPE

Art Unit

3627

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,385,226	2002-05-07	09/923,754	2001-08-06	247080-000005USC3

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/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.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6385226
Issue Date: May 7,2002
Application No. 09923754
Filed: August 6,2001
Attorney Docket No. 247080-000005USC3

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

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 7.5 year 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,554,370	2003-04-29	09/923,918	2001-08-07	P2125

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

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

LOSS 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	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Kunwar Singh/	Date (YYYY-MM-DD)	2011-09-23
Name	Kunwar Singh	Registration Number	66527

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6554370
Issue Date: April 29,2003
Application No. 09923918
Filed: August 7,2001
Attorney Docket No. 068697.00001

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

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 7.5 year 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/13/11

TO SPE OF : ART UNIT 2454

SUBJECT : Request for Certificate of Correction for Appl. No.: 09923923 Patent No.: 7814172

CofC mailroom date: 08/29/11

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: _____

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.

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

Comments: _____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Joseph E. Avellino/

2454

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

MAILED
JUN 07 2011
OFFICE OF PETITIONS

In re Application of :
Edwin C. Iliff :
Application No. 09/924,216 : NOTICE
Patent No. 6,641,532 :
Filed: August 07, 2001 :
Attorney Docket No. **ILIFF.2CP1C1C1**

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SEAN SUITER**
SUITER WEST SWANTZ PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

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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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of :
Lei Wu et al :
Application No. 09/924,428 : ON PETITION
Filed: August 7, 2001 :
Attorney Docket No. 4718420005000

This is a decision on the petition, filed August 12, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 13, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1641 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

MAILED
SEP 22 2011
OFFICE OF PETITIONS

In re Patent No. 6,684,505 :
Issued: February 3, 2004 :
Application No. 09/924,429 : DECISION RE: 37 CFR 1.28
Filed: August 8, 2001 :
Attorney Docket No. 525-024-2-1 :

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.

However, the request cannot be entered at present time as the request fails to meet the itemization requirements of 37 CFR 1.28(c)(2)(ii) wherein it states:

> (ii) Itemization of the deficiency payment. An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> (A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
>
> (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
>
> (C) The deficiency owed amount (for each fee erroneously paid); and
>
> (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

Correction may be accomplished by renewed request compliant with 37 CFR 1.28 or renewed request accompanied by submission of the processing fee set forth at 37 CFR 1.17(i) in accordance with 37 CFR 1.28(c)(3).

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of

attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: PATRICIA SMINK OGOWSKI
Connolly Bove Lodge and Hutz LLP
The Nemours Building
1007 North Orange Street, P.O. Box 2207
Wilmington, DE 19899

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAN 13 2012
OFFICE OF PETITIONS

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

In re Patent No. 6,684,505 Issued: February 3 , 2004 Application No. 09/924,429 Filed: August 8, 2001 For: METHOD FOR MANUFACTURING A BUMPER BAR	:	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) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6471565	2002-10-29	09924810	2001-08-08	18570.4

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Dana L. Tangren/	Date (YYYY-MM-DD)	2011-01-04
Name	DANA L. TANGREN	Registration Number	37246

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6471565
Issue Date: October 29,2002
Application No. 09924810
Filed: August 8,2001
Attorney Docket No. 1759.050

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

This is a decision on the electronic petition, filed January 4,2011 ,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 January 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6452511	2002-09-17	09924894	2001-08-08	00CR089

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Matthew J. Evans/	Date (YYYY-MM-DD)	2010-11-05
Name	Matthew J. Evans	Registration Number	56530

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

Privacy Act Statement

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

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

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

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

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes 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. 6452511
Issue Date: September 17,2002
Application No. 09924894
Filed: August 8,2001
Attorney Docket No. 00CR089/KE

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

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 7.5 year 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.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6575685	2003-06-10	09/924,908	2001-08-08	5748.2.1NP

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Jason P. Webb/	Date (YYYY-MM-DD)	2011-10-17
Name	Jason P. Webb	Registration Number	55714

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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9. A record from this system of records may be disclosed, as a routine use, to a 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. 6575685
Issue Date: June 10,2003
Application No. 09924908
Filed: August 8,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed October 17,2011 ,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 October 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.

UNITED STATES 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

APR 07 2011

OFFICE OF PETITIONS

Steven W. Lucas
4205 Verona Dr
Wilmington DE 19808

In re Patent No.: 6,519,393 :
Issue Date: February 11, 2003 :
Application No.: 09/925,203 : ON PETITION
Filed: August 9, 2001 :
Attorney Docket No. SWL-0071 :

This is a decision on the petition under 37 CFR 1.377 filed March 7, 2011, requesting that the Office acknowledge the 7.5-year maintenance fee for the above-cited patent as being timely received.

The petition is **granted**.

The above-identified patent issued on February 11, 2003. The 7.5 year maintenance fee was payable from the period of February 11, 2010, through August 11, 2010, and with a surcharge from August 12, 2010, through February 11, 2011. An attempt to pay the 7.5 year maintenance fee was made on February 4, 2011. A "Notice of Non-Acceptance of Patent Maintenance Fee" was mailed February 16, 2011, indicating that the 7.5-year maintenance fee was not accepted.

The record reveals an attempt was made to pay the 7.5 year maintenance fee prior to the filing of the instant petition and that the 7.5 year maintenance fee was because petitioner provided an incorrect patent number on the Maintenance Fee Transmittal form filed February 4, 2011. The correct application serial number was provided on the Maintenance Fee Transmittal form, however. Section 2580 of the *Manual of Patent Examining Procedure* provides that:

> [a] petition under 37 CFR 1.377 would not be appropriate where there is a complete failure to include at least one correct mandatory identifier as required by 37 CFR 1.366(c) for the patents no evidence would be present on which the maintenance fee was intended to be paid . . . A petition under 37 CFR 1.377 would not be appropriate where the patentee intended to pay the maintenance fee on one patent when the patentee intended to pay the maintenance fee on a different patent but through error identified the wrong patent number and application number.

In this instance, petitioner identified the correct application number, but the incorrect patent number. Nevertheless, because the maintenance fee was accompanied by one of the mandatory identifiers under 37 CFR 1.366, the 7.5 maintenance fee will be noted as received on February 4, 2011, for the above-identified patent. The petition fee of $200.00 and six-month surcharge of $65.00 are of record. The 7.5-year maintenance of $1,240.00 is noted and accepted.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6345828	2002-02-12	09925242	2001-08-08	010628.00027

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Jon O. Nelson/	Date (YYYY-MM-DD)	2010-08-31
Name	Jon O. Nelson	Registration Number	24566

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

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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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In re Patent No. 6345828
Issue Date: February 12,2002
Application No. 09925242
Filed: August 8,2001
Attorney Docket No. 10628.00027

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

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 7.5 year 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TS/SIPCO
TROUTMAN SANDERS LLP
600 PEACHTREE STREET
5200 BANK OF AMERICA PLAZA
ATLANTA GA 30308

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Patent No. 7,103,511 :
Issue Date: September 5, 2006 :
Application No. 09/925,269 : NOTICE
Filed: August 9, 2001 :
Attorney Docket No. STAT1210 :

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 Diane C. Goodwyn at (571) 272-6735.

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
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In re Patent No. 7082112
Issue Date: July 25,2006
Application No. 09925642
Filed: August 10,2001
Attorney Docket No. P 274258 DIV2-P7100 US/2

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

This is a decision on the electronic petition, filed October 25,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 25,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7082112	2006-07-25	09925642	2001-08-10	P24427D

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf 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. Draeger/	Date (YYYY-MM-DD)	2010-10-25
Name	Jeffrey S. Draeger	Registration Number	41000

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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In re Patent No. 7061883
Issue Date: June 13,2006
Application No. 09925643
Filed: August 10,2001
Attorney Docket No. 42P24427D4

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

This is a decision on the electronic petition, filed March 3,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7061883	2006-06-13	09925643	2001-08-10	42P24427D4

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2011-03-03
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.

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

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

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

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

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

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

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

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

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

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Paper No.

FRISHAUF, HOLTZ, GOODMAN &
CHICK, PC
220 5TH AVE FL 16
NEW YORK, NY 10001-7708

MAILED
AUG 30 2010
OFFICE OF PETITIONS

In re Patent No. 7,335,765	:	FINAL AGENCY DECISION
Kaneko et al.	:	DISMISSING REQUEST FOR
Issue Date: February 26, 2008	:	RECONSIDERATION OF
Application No. 09/925,673	:	PATENT TERM ADJUSTMENT
Filed: August 9, 2001	:	UNDER 37 CFR 1.705(d)
Atty Docket No. 01376CIP/HG	:	

This is a decision on the "RESPONSE TO THE AUGUST 12, 2008 DECISION ON THE REQUEST FOR RECONSIDERATION OF DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT FILED FEBRUARY 14, 2008" filed October 8, 2008. Patentees continue to request[1] correction of the patent term adjustment from two hundred twenty-five (225) days to one thousand sixty-seven (1067) days on the basis that the patent issued on February 26, 2008, which is 872[2] days after 4 months from the payment of the issue fee on June 27, 2005.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is DENIED with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 225 days. This decision may be viewed as a final agency action within the meaning of 5 U.S.C 704 and for purposes of seeking judicial review. See MPEP § 1002.02(b).

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[1] By decision mailed August 20, 2008, the Office dismissed the "REQUEST FOR RECONSIDERATION OF DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT" filed February 14, 2008, as supplemented by the APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN AN ISSUED PATENT (37 CFR §1.705(d)" filed March 20, 2008.

[2] At issuance, the Office entered 30 days for Office delay pursuant to 35 USC 154(b)(1)(A)(iv) and 37 CFR §§ 1.702(a)(4) and 1.703(a)(6).

BACKGROUND

On January 28, 2004, a first Notice of Allowance and Fee Due was mailed in this application. In response on April 13, 2004, patentees timely filed a request for continued examination (RCE). Accordingly, no issue fee was required in response to the Notice of Allowance, prosecution was reopened, and on August 11, 2004, a new Notice of Allowance and Fee Due was mailed.

In response thereto on August 17, 2004, patentees again timely filed a request for continued examination, in lieu of, paying the issue fee and again reopening prosecution. Again, on March 14, 2005[3], a new Notice of Allowance and Fee Due was mailed. However, no issue fee was paid in response to this Notice. Pursuant to requests by patentees to correct the Notice to include copies of initialed references, a corrected Notice of Allowance and Fee Due was mailed on April 5, 2005. Then, on May 4, 2005, initialed 1449s with respect to IDSs filed on August 17, 2004 and September 30, 2004 were mailed. No distinct but concurrent requirement was set forth in the outstanding Notice of Allowability. Finally, in response to this corrected Notice, on June 27, 2005, patentees timely paid the issue fee.

However, on August 1, 2006[4], the Office mailed an Office action, withdrawing the application from issuance and reopening prosecution in view of the reference cited in applicants IDS filed February 17, 2005. Thereafter on August 7, 2006, patentees filed another request for an initialed copy of form PTO/SB/08A. Moreover, on November 8, 2006, patentees responded to the withdrawal from issuance with the filing of 1) an amendment, 2) a declaration under 37 CFR 1.132, 3) an Information Disclosure Statement, and 4) a one-month extension of time to make the response timely.

Thereafter, on February 7, 2007, having considered the amendment filed November 8, 2006, the Office mailed a final rejection. On

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[3] A previous Notice of Allowance was "mailed" on January 31, 2005. However, by petition filed March 18, 2005, it was requested that the period for response be reset as the postmark date of the correspondence was more than one month later than the mail date printed on the PTO Notice of Allowance. Prior to a decision being rendered on this request, the Notice had been remailed and the period reset with the mailing of March 14, 2005.

[4] A Notice of Withdrawal from Issue was originally mailed June 26, 2006. The record indicates that pursuant to a request for correct of the Notice to refer to 37 CFR 1.313(b), not 37 CFR 1.313(c), the Notice was corrected and mailed on August 1, 2006.

May 7, 2007, applicant resubmitted the declaration under 37 CFR 1.132 along with a notice of appeal.

On July 26, 2007, the Office mailed a new Notice of Allowance and Fees Due. The accompanying Notice of Allowability set forth no distinct but concurrent requirements. On September 27, 2007, patentees filed the issue fee transmittal, requesting reapplication of the previously submitted issue fee. On February 26, 2008, the patent issued.

At issuance, the Office entered a period of adjustment of 30 days pursuant to 37 CFR 1.702(a)(4) as the patent issued four months and 30 days after September 27, 2007, the date the issue fee had been paid and all outstanding requirements had been met. Accordingly, the application issued as U.S. Patent No. 7,335,765, with a revised patent term adjustment of 225 days.

Notwithstanding the Office's withdrawal of issuance of August 1, 2006 (and patentees' subsequent filings), patentees maintain that the Office delay in issuance of the patent after payment of the issue fee and satisfaction of all outstanding requirements should be based on payment of the issue fee on June 27, 2005. This would increase the patent term adjustment by 842 days to 1067 days.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999 (AIPA) provides that:

ADJUSTMENT OF PATENT TERM. –
(1) PATENT TERM GUARANTEES. –
(A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –

...

(iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

37 CFR § 1.702, provides:
(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to:

...

(4) Issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

37 CFR § 1.703, provides:
(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

...

(6) The number of days, if any, in the period beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date a patent was issued.

OPINION

The decision that entry of an additional period of adjustment pursuant to 35 USC 154(b)(1)(A)(iv) and 37 CFR 1.702(a)(4) and 1.703(a)(6) is not warranted in this case is affirmed. The Office properly determined that any period of adjustment calculated under 35 USC 154(b)(1)(A)(iv) and 37 CFR 1.702(a)(4) and 1.703(a)(6) would be based on the date of September 27, 2007, the date the issue fee was paid in response to the new notice of allowance and all outstanding requirements were met.

35 USC 154(b)(1)(A)(iv) provides for entry of a period of adjustment for Office failure to:

> issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period

> specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.

37 CFR 1.702(a)(4), implements the statute, by providing for adjustment of patent term due to Office failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied.

Section 1.703(a)(6) pertains to the provisions of 35 U.S.C. 154(b)(1)(A)(iv) and § 1.702(a)(4). Section 1.703(a)(6) specifies that:

> the period is the number of days, if any, beginning on the day after the date that is four months after the date the issue fee was paid and all outstanding requirements were satisfied and ending on the date the patent was issued.

Patentees' are incorrect in relying solely on the date of payment of the issue fee to calculate this period. As clearly stated in the rules and supported by the statute, the period begins on the date that is four months after the date the issue fee was paid <u>and</u> all outstanding requirements were satisfied.

Further, it is proper for the Office to determine when all outstanding requirements are satisfied. The Office has stated in the final rule:

> the date the issue fee was paid and all outstanding requirements were satisfied is the later of the date the issue fee was paid or the date all outstanding requirements were satisfied. However, if prosecution in an application is reopened after allowance (see MPEP 1308), all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 (see MPEP 1308). See *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000).

This interpretation is not inconsistent with the statute. Both the statute and the rule consider Office delay based on the date the Office takes action after the issue fee is paid and all outstanding requirements are met. Payment of the issue fee in of itself may not be sufficient to have the patent issue. A

patent cannot issue until all outstanding requirements necessary to be satisfied for its issuance have been met. Accordingly, the Office is not deemed to have engaged in examination delay until 4 months after the issue fee has been paid and all outstanding requirements have been met.

Moreover, where prosecution in an application is reopened after allowance, all outstanding requirements are not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151. After reopening of prosecution, the patent cannot issue until all outstanding requirements necessary to be satisfied for its issuance have been met. In the circumstance where the Office determines that withdrawal of the application from issue is appropriate, prosecution is reopened and the patent cannot issue until the matter that served as the basis for the withdrawal from issue is addressed, and if at all, a new Notice of Allowance is issued. Further, regardless of the previous payment of the issue fee, all outstanding requirements are not met until an applicant replies to the new notice of allowance. For the patent to issue (and the application not to be considered abandoned), applicant must return Part B of the issue fee transmittal. Thus, it is proper to consider all outstanding requirements not satisfied until the application is again in condition for allowance as indicated by the issuance of a new notice of allowance under 35 U.S.C. 151 and applicant properly responds to the new notice of allowance.

In this instance, a new notice of allowance was mailed July 26, 2007 and all outstanding requirements were met when the new issue fee transmittal was submitted on September 27, 2007. After payment of the issue fee on June 27, 2005, all requirements necessary for issuance of the patent were not met. The Office determined that there were matters that had to be addressed before issuance and thus, withdrew the application from issuance. (Patentees filed responsive papers raising further matters). In this instance, not until issuance of the new Notice of Allowance on July 26, 2007 and payment of the issue fee on September 27, 2007 were the matters that served as the basis for withdrawal from issuance resolved and all outstanding requirements met for issuance of this patent. The conclusion that the controlling date in calculating the period of adjustment for Office delay pursuant to 35 USC 154(b)(1)(A)(iv) and 37 CFR 1.702(a)(4) is the date of submission of the issue fee transmittal on September 27, 2007 in response to the

new notice of allowance mailed July 26, 2007 is affirmed. The period of adjustment of 30 days is correct.

CONCLUSION

The patent issued with a correct patent term adjustment of two hundred twenty-five (225) days.

The request for reconsideration of the revised patent term adjustment is denied. This decision may be viewed as a final agency action. See MPEP § 1002.02(b).

The Office acknowledges that patentees previously submitted the $200 fee set forth in §1.18(e) on application for patent term adjustment.

Telephone inquiries specific to this matter should be directed to Nancy Johnson, Senior Petitions Attorney, at (571) 272-3219.

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
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MAILED

DEC 09 2010

OFFICE OF PETITIONS

Accenture c/o Murabito, Hao & Barned LLP
Two North Market Street, Third Floor
San Jose CA 95113

In re Application of	:	
Lawrence Oskielunas et al.	:	
Application No. 09/925,758	:	DECISION ON PETITION
Filed: August 9, 2001	:	
Attorney Docket No. ACNR-D01-195/01356-00/US	:	

This is a decision on the petition filed August 18, 2010, which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the Power of Attorney and Change of Correspondence Address, filed May 7, 2010, be expunged from the record.

A petition to expunge papers under 37 CFR 1.59(b) must be filed by the applicant. According to Office records, there are eight inventors. Six of the inventors assigned their rights to Accenture which then assigned their rights to Accenture Global Services GMBH (Accenture). The other two inventors assigned their rights to Summit Telecom Systems, Inc which then assigned their rights to Arbinet-TheExchange, Inc. (Arbinet). There have been several powers of attorney filed in this application but none other than the first power of attorney to Merchant & Gould P.C. was filed properly by all the applicants, even though the Office accepted them. It would appear that petitioner represents only the assignee Accenture and thus does not represent all the applicants and cannot file the instant petition. Reference is made to MPEP 402.10 and 37 CFR 3.71(b)(2).

Further, the petition is deficient because there is no statement that:

(B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc:

Alfred Froebrich
551 Fifth Avenue, Suite 1210
New York, New York 10176

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6991589
Issue Date: January 31,2006
Application No. 09925934
Filed: August 9,2001
Attorney Docket No. 4008-00201

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

This is a decision on the electronic petition, filed May 18,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6991589	2006-01-31	09925934	2001-08-09	650W007A

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/George R. McGuire/	Date (YYYY-MM-DD)	2011-05-18
Name	George R. McGuire	Registration Number	36603

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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SOFFER & HAROUN, LLP
Suite 910
317 Madison Avenue
New York NY 10017

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,133,614
Issue Date: November 7, 2006
Application No. 09/925,961
Filed: August 9, 2001
Attorney Docket No. **773-013**

DECISION ON PETITION

This is a decision on the Request For Correction Of Patent Under Rule 37 CFR 1.183, filed December 2, 2010, which is being treated as a Petition Under 37 CFR 3.81(b), to add --HITACHI, LTD., JAPAN-- to the Title Page of the Patent via a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests that the present Petition was submitted to add --HITACHI, LTD., JAPAN-- on the previously submitted PTOL-85B and such error was inadvertent.

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

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

The Petition Under 37 CFR §3.81(b) was not accompanied by a Certificate of Correction Form (PTO/SB/44) as required by §3.81(b). *See also* MPEP 1481.01. Since petitioner has failed to comply with the provisions of 37 CFR §3.81(b), the petition is dismissed.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6578293	2003-06-17	09926198	2001-09-24	213965USMF

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2011-12-07
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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The information provided by you in this form will be subject to the following routine uses:

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6578293
Issue Date: June 17,2003
Application No. 09926198
Filed: September 24,2001
Attorney Docket No. 213965US6PCT

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

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 7.5 year 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

GOWLING LAFLEUR HENDERSON LLP
SUITE 1600, 1 FIRST CANADIAN PLACE
100 KING STREET WEST
TORONTO ON M5X 1G5
CANADA

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Spicer et al.	:	DECISION ON PETITION
Application No. 09/926,474	:	
Filed: January 18, 2002	:	
Atty Docket No. T8465681US	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 21, 2010.

The petition is **GRANTED**.

A non-final Office action was mailed in this application on June 9, 2008. In response, applicant timely filed a notice of appeal on December 9, 2008. No appeal brief filed or further action taken, the application became abandoned effective February 10, 2009. A courtesy Notice of Abandonment was mailed on August 7, 2009.

The petition includes the required reply in the form of an amendment, the required statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 2451 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed September 21, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 04/02/12

TO SPE OF : ART UNIT 1616

SUBJECT : Request for Certificate of Correction for Appl. No.: 09926521 Patent No.: 7049270

CofC mailroom date: 03/21/12

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: **Should the changes be made?**

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: _____

_____

_____

_____

_____

Padmanabhan 1627

SUPERVISORY PATENT EXAMINER

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUL 06 2011
OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Patent No. 6,821,018	:	
Issue Date: November 23, 2004	:	
Application No. 09/926,546	:	DECISION ON PETITION
Filed: November 19, 2001	:	
Attorney Docket No. P21701	:	
	:	

This is a decision on the petition under 37 C.F.R. §1.378(b) to accept the unavoidably delayed payment of the maintenance fee, filed June 6, 2011.

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

Background

The above-identified patent issued on November 23, 2004. Accordingly, the first maintenance fee could have been timely paid during the period from November 23, 2007 through May 23, 2008, or with a late payment surcharge during the period from May 24, 2008 through November 23, 2008. No maintenance fee having been received, the patent expired on November 24, 2008.

With the instant petition, petitioner sets forth the facts below. The patentee engaged the French law firm of Cabinet Roman to file a French application and an international application, claiming priority to the French application. The patentee then desired to file a national stage of the international application in the US Patent and Trademark Office. As such, Cabinet Roman contacted the US law firm of Greenblum & Bernstein to prepare and prosecute the instant application, which matured into the instant patent on November 23, 2004. Cabinet Roman acted as an intermediary between the French patentee and Greenblum & Bernstein.

Petitioner sets forth that on March 16, 2006, Greenblum & Bernstein sent a letter to Cabinet Roman, reminding them of the first maintenance fee due date, and informing them that effective January 2007, Greenblum & Bernstein would no longer be responsible for the docketing and payment of US maintenance fees. The letter also stated that Greenblum & Bernstein would no longer forward any reminders or correspondence from the US Patent and Trademark Office regarding maintenance fees. In addition, the letter informed Cabinet Roman of several annuity services that could assist them in tracking and paying the US maintenance fees.

The March 16, 2006 letter was received by Michel Roman, one of the principals at Cabinet Roman. However, petitioner states that Michel Roman failed to record the May 23, 2008 due date for the maintenance fee in his tracking system. Furthermore, on May 21, 2008, Greenblum & Bernstein sent a facsimile to Cabinet Roman, reminding them of the maintenance fee due date. However, Michel Roman received the reminder letter, but inadvertently placed the reminder in the wrong file.

As such, the maintenance fee was not paid, and this was not discovered until February of 2011, when the patentee was contacted by a potential purchaser/licensee.

Relevant Statutes and Regulations

35 U.S.C. § 41(c)(1) states that:

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

37 C.F.R. § 1.378(b) provides that:

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

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

§ 1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. § 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32 (N.D. Ind. 1987).

Moreover, delay resulting from the lack of knowledge or improper application of the patent statutes, rules of practice or the Manual of Patent Examining Procedure, however, does not constitute "unavoidable" delay.

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable. Cf. Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960)(35 U.S.C. § 133 does not require the Commissioner to affirmatively find that the delay was avoidable, but only to

explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Commissioner that the delay in payment of a maintenance fee is unavoidable. See Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991), cert. denied, 502 U.S. 1075 (1992); Ray v. Lehman, 55 F. 3d 606, 608 - 609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995).

Analysis

Petitioner has not demonstrated unavoidable delay within the meaning of 35 U.S.C. §41(c)(1) and 37 C.F.R. § 1.378(b).

It is apparent that the error my Michel Roman was the cause of the delay at issue. 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).

However, when the actor is an attorney or agent, he is held to a higher standard than one of these aforementioned employees. The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner 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); Smith v. Diamond, 209 USPQ 1091, 1093 (D.D.C. 1981). As such, while clearly unintentional, Roman's error can not be characterized as unavoidable within the meaning of 37 C.F.R. § 1.378(b).

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(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely

important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OCT 17 2011
OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Patent No. 6,821,018	:	
Issue Date: November 23, 2004	:	
Application No. 09/926,546	:	REQUEST FOR INFORMATION
Filed: November 19, 2001	:	
Attorney Docket No. P21701	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION TO ACCEPT DELAYED PAYMENT OF MAINTENANCE FEE UNDER 37 C.F.R. 1.378(b)", filed September 6, 2011.

On renewed petition, petitioner asserts that although Mr. Roman is an attorney, he should not be held to a higher standard as when the actor is an attorney or agent. Petitioner argues that this is because Roman is not licensed to practice law before any US tribunal or state bar.

Petitioner's argument has been carefully considered, and found to be persuasive. However, before the petition can be granted, petitioner is requested to show the following:

1. That Roman was sufficiently trained to conduct the duty of entry of maintenance fee reminders.

2. That Roman was reliable with regard to this duty.

Petitioner is given a ONE (1) MONTH period to respond to this letter. No extensions of time under 37 CFR 1.136(a) may be obtained.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

GREENBLUM & BERNSTEIN PLC
1950 ROLAND CLARKE PLACE
RESTON VA 20191

In re Patent No. 6,821,018	:	
Issue Date: November 23, 2004	:	
Application No. 09/926,546	:	DECISION ON PETITION
Filed: November 19, 2001	:	
Attorney Docket No. P21701	:	
	:	

This is a decision on the renewed petition under 37 C.F.R. §1.378(b) to accept the unavoidably delayed payment of the maintenance fee, filed November 17, 2011.

The petition is **GRANTED**.

Background

The above-identified patent issued on November 23, 2004. Accordingly, the first maintenance fee could have been timely paid during the period from November 23, 2007 through May 23, 2008, or with a late payment surcharge during the period from May 24, 2008 through November 23, 2008. No maintenance fee having been received, the patent expired on November 24, 2008.

In a petition to accept the unavoidably delayed payment of the maintenance fee, filed June 6, 2011, petitioner set forth the following. The patentee engaged the French law firm of Cabinet Roman to file a French application and an international application, claiming priority to the French application. The patentee then desired to file a national stage of the international application in the US Patent and Trademark Office. As such, Cabinet Roman contacted the US law firm of Greenblum & Bernstein to prepare and prosecute the instant application, which matured into the instant patent on November 23, 2004. Cabinet Roman acted as an intermediary between the French patentee and Greenblum & Bernstein.

Oon March 16, 2006, Greenblum & Bernstein sent a letter to Cabinet Roman, reminding them of the first maintenance fee due date, and informing them that effective January 2007, Greenblum & Bernstein would no longer be responsible for the docketing and payment of US maintenance fees. The letter also stated that Greenblum & Bernstein would no longer forward any reminders or correspondence from the US Patent and Trademark Office regarding maintenance fees. In addition, the letter informed Cabinet Roman of several annuity services that could assist them in tracking and paying the US maintenance fees.

The March 16, 2006 letter was received by Michel Roman, one of the principals at Cabinet Roman. However, petitioner states that Michel Roman failed to record the May 23, 2008 due date for the maintenance fee in his tracking system. Furthermore, on May 21, 2008, Greenblum & Bernstein sent a facsimile to Cabinet Roman, reminding them of the maintenance fee due date. However, Michel Roman received the reminder letter, but inadvertently placed the reminder in the wrong file.

As such, the maintenance fee was not paid, and this was not discovered until February of 2011, when the patentee was contacted by a potential purchaser/licensee.

Patentee's petition was dismissed in a decision mailed on July 6, 2011. The decision explained that as Roman is an attorney, he is held to a higher standard than an employee in committing an error (e.g. a docketing error as set forth in MPEP 711.03(c)(III)(C)(2). On renewed petition filed September 6, 2011, petitioner argued that Roman is not licensed to practice before a US tribunal or state bar, and as such, should not be held to the higher standard as an attorney. In other words, Roman in performing his maintenance fee duties was more analogous to an employee than an attorney. The Office mailed a Request for Information on October 17, 2011, stating that petitioner's

argument was found to be persuasive. However, the Request for Information requested that petitioner show that (1) Roman was sufficiently trained to conduct the duty of entry of maintenance fee reminders; and (2) Roman was reliable with regard to this duty.

Opinion:

On renewed petition, petitioner has satisfactorily shown that Roman was sufficiently trained, experienced, and reliable with entering maintenance fee reminders.

Conclusion:

Accordingly, it is concluded in this instance that petitioner has demonstrated that the delay in paying the 3.5 year maintenance fee was unavoidable.

The instant patent is hereby reinstated as of the mailing date of this decision.

The window for paying the 7.5 year maintenance fee is now open.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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AUG 01 2011

OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

In re Patent No. 7,205,982	:	
Issued: April 17, 2007	:	
Application No. 09/926,766	:	ON PETITION
Filed: May 22, 2002	:	
Attorney Docket No. 150022	:	

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

The petition is **GRANTED**.

This patent expired on April 18, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Further, 37 CFR 1.378(c) requires a statement that "the delay in payment of the maintenance fee to this patent was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.378(c), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Additionally, 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.

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

FEB 28 2012

Anthony M. Insogna, Esq.
JONES DAY
222 East 41st Street
New York, NY 10017

In Re: Patent Term Extension
Application for
U.S. Patent No. 6,589,508

Dear Mr Insogna:

An interim extension under 35 U.S.C. § 156(e)(2) is enclosed extending the term of U.S. Patent No. 6,589,508 for a period of 1 year. While a courtesy copy of this letter is being forwarded to the Food and Drug Administration (FDA), you should directly correspond with the FDA regarding any required changes to the patent expiration dates set forth in the Patent and Exclusivity Data Appendix of the Orange Book (Approved Drug Products with Therapeutic Equivalence Evaluations) or in the Patent Information set forth in the Green Book (FDA Approved Animal Drug Products). Effective August 18, 2003, patent submissions for publication in the Orange Book and Docket *95S-0117 need to be submitted on form FDA-3542 which may be downloaded from FDA's Electronic Forms Download Website: http://www.fda.gov/opacom/morechoices/fdaforms/default.html (http://www.fda.gov/opacom/morechoices/fdaforms/FDA-3542.pdf).

Inquiries regarding this communication should be directed to the undersigned by telephone at (571) 272-7755, or by e-mail at 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: BROVANA® (arformoterol tartrate)
Docket No.: FDA-2007-E-0226

Attention: Beverly Friedman

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Sunovion Pharmaceuticals Inc.	:	
Request for Patent Term Extension	:	ORDER GRANTING
U.S. Patent No. 6,589,508	:	INTERIM EXTENSION

An application for patent term extension under 35 U.S.C. § 156 for U.S. Patent No. 6,589,508 was filed on December 1, 2006. Sunovion Pharmceuticals Inc. is the current owner of record in the United States Patent and Trademark Office (USPTO) of U.S. Patent No. 6,589,508. The original term of the patent is due to expire on April 3, 2012. The patent claims the active ingredient arformoterol, in the human drug product BROVANA®, which was approved by the Food and Drug Administration for commercial marketing or use on October 6, 2006. An extension of 745 days is requested.

The initial USPTO review of the application to date indicates that the subject patent is eligible for extension of the patent term under 35 U.S.C. § 156. A final determination of the length of the extension of the patent term and issuance of a patent term extension certificate cannot be made until a final determination of the length of the regulatory review period is made. Because the original term of the patent would expire before a certificate of patent term extension can be issued, an interim extension of the patent term is appropriate.

An interim extension under 35 U.S.C. § 156(e)(2) of the term of U.S. Patent No. 5,310,912 is granted for a period of one year from the original expiration date of the patent.

David J. Kappos

February 24, 2012

Date

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CONLEY ROSE, P.C.
5601 GRANITE PARKWAY, SUITE 750
PLANO TX 75024

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,730,006 :
Issue Date: May 4, 2004 :
Application No. 09/927,039 : ON PETITION
Filed: August 9, 2001 :
For: Back Pain/Back Health Protocol :
:

This is a decision on the petition under 37 CFR 1.378(b), filed May 18, 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 Director will undertake no further reconsideration or review of the matter. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts, as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

The patent issued May 4, 2004. The 3.5 year (first) maintenance fee could have been paid from May 4, 2007 through November 3, 2007 or with a surcharge during the period from November 4, 2007 through May 4, 2008. Accordingly, the patent expired on May 5, 2008, for failure to timely submit the 3.5 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 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 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) because 35 U.S.C. § 41(c)(1) uses the 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 addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[3] 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.[4]

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.[5] However, "the question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case basis, taking all of the facts and circumstances into account".[6] Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.[7] The statue requires a "showing" by petitioner. Therefore, petitioner has the burden of proof.

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. [8]

PETITIONER'S ARGUMENT

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[1] 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)).

[2] 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 man 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).

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

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

[5] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee...at any time...if the delay is shown to the *satisfaction of the Commissioner* to have been unavoidable (emphasis added).

[6] Smith v. Mossinghoff, 671 F.2d at 533.

[7] Id. at 538.

[8] 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).

- In March 2008, patentee Paul Patterson was diagnosed with terminal cancer. Mr. Patterson died on December 12, 2008 without paying the 3.5 year maintenance fee and without informing his heirs that maintenance fees were due.

- Per the terms of his will (Exhibit B) Mr. Patterson's wife Dale (Nicholishen) Patterson ("Ms. Patterson") inherited the rights to the instant patent. The instant patent was not specifically mentioned in the will.

- The petition states that Ms. Patterson had no knowledge of the instant patent. Further, Ms Patterson has no experience with patents and was not aware that the payment of maintenance fees is periodically required to maintain a patent in force.

- Petitioner contends that as a result of Mr. Patterson's illness and Ms. Patterson's lack of knowledge the 3.5 year maintenance fee was not paid.

- Although a maintenance fee reminder was mailed to the firm responsible for prosecuting the application Conley Rose, P.C., petitioner contends the "notice does not appear to have been forwarded to Ms. Patterson". Thus petitioner concludes that Ms. Patterson did not receive notice of either the existence of the instant patent or the requirement to pay the maintenance fee.

- Petitioner insists that Ms. Patterson exercised due care of a reasonably prudent person to protect her rights. Ms. Patterson was ignorant of fact and not law similar to the widow in In re Mattullath 38 App D.C. 497 (1912).

- Sometime between March 22, 2004 and November 24, 2010 several patent files were transferred from Conley Rose, P.C. to Winstead law firm.

- A letter dated November 24, 2010 from Ross Robinson of Winstead to Ms. Patterson, informed Ms. Patterson of the status of the various patents including the instant patent (Exhibit D).

- Petitioner contends this letter was the first notice that Ms. Patterson had regarding the payment of maintenance fees for the instant patent.

- In November or early December 2010 Ms. Patterson was contacted by Alain Mercier regarding the sale of certain patent rights including the instant patent.

- Patentee states Ms. Patterson transferred all rights to 6926584 Canada, Inc. on January 4, 2011. On February 12, 2011, Mercier contacted attorney Hutsel of the law firm of Moffat & Co. regarding the possibility of reinstating the instant patent (Exhibit F).

- Thereafter, attorney Hutsel contacted George McGuire, who filed the instant petition.

APPLICATION OF THE UNAVOIDABLE STANDARD

Petitioner's arguments have been considered but are not persuasive. In general a grantable petition under 37 CFR 1.378 (b) must show 1) petitioner knew of the need to make the maintenance fee payment, 2) implemented a reliable docketing system to track the relevant dates 3) treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as his most important business 4) was prevented from making the payment and 5) must show the entire delay in making the payment and submitting a grantable petition was unavoidable.

In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due. 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.

Based upon the dates that the maintenance fee could have paid we must look at the actions of deceased patentee Paul Patterson. When determining whether a delay in paying a maintenance fee is unavoidable, the Office looks at whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.[9] The petition does not demonstrate that anyone maintained a tracking system. Petitioner has failed to provide any evidence that either Paul Patterson, the law firm of Conley Rose, Winstead or Ms. Patterson were tracking the maintenance fee due dates. To the extent petitioners contend they relied upon a system which was maintained by a law firm, such evidence has not been provided.

It is solely the responsibility of the patentee to ensure that the maintenance fee is paid timely to prevent expiration of the patent. Failure to monitor the status of a patent does not reflect the due care and diligence employed by a prudent and careful person with respect to their most important business and as such cannot demonstrate that the delay was unavoidable delay. The record lacks any showing that Paul Patterson took any action to prevent the expiration of the patent.

Further petitioner makes several conclusions that are not substantiated by any evidence. It is acknowledged that Paul Patterson died seven months after the expiration of the patent; however

[9] See Kim v. Quigg, 718 F. Supp 1280,1284 12 USPQ2d 1604, 1607(E.D. Va 1989).

the record does not show that the failure to pay the maintenance fee by Paul Patterson was due to illness. To the extent illness rendered Mr. Patterson incapable of conducting business prior to his death, no evidence such as medical records etc. have been provided. Such a showing must be supported by medical records, a statement from petitioner's treating physician, and such statement must provide the nature of petitioner's incapacitation during the above-mentioned period. Petitioner should also supply the dates petitioner remained in the hospital. Petitioner should discuss whether petitioner was able to pay bills during this time such as rent, mortgage, insurance and utilities. The evidence provided must establish the illness prevented Mr. Patterson's illness prevented him from paying the maintenance fee from May 4, 2007 until the date of expiration May 4, 2008.

In the absence of a showing that any steps had been taken, then 37 CFR 1.378(b) precludes acceptance of the payment. In other words, if no steps were taken by Mr. Patterson to track the fee payment, then the concurrent and subsequent health problems of Mr. Patterson would be immaterial to the delay. The showing must be that when the system indicated the fee fell due, the health problems of petitioner was "unavoidably" prevented from taking any earlier action with respect to this patent.

Petitioner indicates that a maintenance fee reminder was mailed to the law firm of Conley and Rose, but the Notice did not appear to be forwarded to Ms. Patterson. However, at the time of the mailing of the Notice, Mr. Patterson was still the person responsible for making the maintenance fee payment. Under the statutes and the regulations, the Office has no duty to notify patentees when their maintenance fees are due. It is the responsibility of the patentee to ensure that the maintenance fees are paid to prevent expiration of the patent. The Office will, however, provide some notices as reminders that maintenance fees are due, but the notices, errors in the notices or in their delivery, or the lack or tardiness of notices will in no way relieve a patentee from the responsibility to make timely payment of each maintenance fee to prevent the patent from expiring by operation of law. The notices provided by the Office are courtesies in nature and intended to aid patentees. The Office's provision of notices in no way shifts the burden of monitoring the time for paying maintenance fees on patents from the patentee to the Office. A reasonably prudent person would have ensured that the Office had an appropriate address where he could receive any possible communications mailed.

When determining whether a delay in paying a maintenance fee is unavoidable, the Office looks at whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.[10] Prior to petitioner's ownership of the patent, Paul Patterson was responsible for maintenance of the patent. As the owner of the patent, Mr. Patterson was free to deal with the patent as he willed.[11] That petitioner, upon his acquisition of its rights in the patent may have acted without delay is immaterial and does not overcome, the delay attributable to Mr. Patterson in paying the maintenance fee and the delay in seeking reinstatement by Ms. Patterson.

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10 Id.

11 See Garfield v. Western Electric Co. 298 F. Supp.659 (S.D.N.Y. 1924).

Unfortunately, petitioner as the successor in title to the Pattersons' interest is bound by the delay resulting from Mr. Patterson's business decisions, actions or inactions, including the lack of timely payment of the maintenance fees for this patent. As well as the delay in filing a grantable petition. Lastly, that one may have subsequently exercised diligence after their assumption of title and belated awareness of the need to pay the fee does not convert the preceding delay into unavoidable delay. See Kim v. Quigg, 718 F.Supp. 1280.

Further, if Mr. Patterson reached a decision that the above-identified patent lacked sufficient commercial value to justify the expense of paying the maintenance fee, such a conclusion of lack of commercial value is neither unavoidable nor is it unintentional. A deliberate act is not rendered unintentional or unavoidable when an applicant or assignee reviews the same facts a second time, which changes their minds as to the appropriate action to pursue. See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pat. 1989). Further any request for reconsideration will have to address the implication found in exhibit D that Mr. Patterson may have intended to not pay the maintenance fee.

Unless petitioner is able to establish there was a reliable system in place to track maintenance fee due dates and that Mr. Patterson was unavoidably delayed in making the maintenance fee due dates, the actions and inactions of Ms. Patterson and any subsequent owner are immaterial.

Accordingly, the facts presented do not allow for a finding of unavoidable delay.

When filing documentation in support of applications or petitions, please take steps to protect all personal information. "Personal information" includes social security, credit card and banking account numbers. This type of personal data is never required by the USPTO to support a petition or application. To protect your privacy, we suggest that you delete such information from any documentation you send the office.

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

Petitioner's current options

I. Petitioner may file a request for reconsideration.

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. This

includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

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

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

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: George McGuire
Bond, Schoeneck & King, PLLC
One Lincoln Center
Syracuse, NY 13202-1355

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6502297	2003-01-07	09/927,120	2001-08-10	BAPLB-1027156

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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. Heckadon//	Date (YYYY-MM-DD)	2011-04-13
Name	David R. Heckadon	Registration Number	50184

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6502297
Issue Date: January 7,2003
Application No. 09927120
Filed: August 10,2001
Attorney Docket No. BAPLB-1027156

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

This is a decision on the electronic petition, filed April 13,2011 ,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 April 13,2011 .
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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,505,622	2003-01-14	09/927,272	2001-08-09	97818.00001 - 57566/147A

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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 D. Giarratana/	Date (YYYY-MM-DD)	2011-03-08
Name	Mark D. Giarratana	Registration Number	32615

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

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

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

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

9. A record from this system of records may be disclosed, as a routine use, to a 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. 6505622
Issue Date: January 14,2003
Application No. 09927272
Filed: August 9,2001
Attorney Docket No. 57556/147A

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

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 7.5 year 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,582,816	2003-06-24	09/927,342	2001-08-13	43124-DIV1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Kameron D. Kelly/	Date (YYYY-MM-DD)	2011-09-09
Name	Kameron D. Kelly	Registration Number	44181

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, to a 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. 6582816
Issue Date: June 24,2003
Application No. 09927342
Filed: August 13,2001
Attorney Docket No. T2316-907458

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of	:	
Andrew H. PRITCHARD	:	
Application No. 09/927,628	:	DECISION ON PETITION
Filed: August 10, 2001	:	
Attorney Docket No. 00-1024	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 02, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 21, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of December 21, 2009 is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110.00 extension of time fee submitted with the petition on August 02, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3691 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAILED
APR 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Tully et al.	:	DECISION ON APPLICATION
Application No. 09/927,914	:	FOR
Filed: 08/10/2001	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
21RE-137270	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF AND APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed March 2, 2011, which is treated as a petition under 37 CFR 1.705(b). Applicants request that the initial determination of patent term adjustment be corrected from zero (0) days to two hundred forty-eight (248) days.

The application for patent term adjustment is **DISMISSED**.

On December 2, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days (263 days of Office delay and 663 days of applicant delay). The instant application for patent term adjustment was timely filed on March 2, 2011.[1]

Applicants assert that the 648 days of applicant delay occurring between July 30, 2002, and October 4, 2010, are not warranted and should be removed. Specifically, applicants assert that the restriction requirement mailed on July 30, 2002, was improper, and that the Office action of October 4, 2010, corrected the errors of the restriction requirement. Consequently, assert

[1] PALM records indicate that the Issue Fee was received on March 2, 2011.

applicants, there were no circumstances between July 30, 2002, and October 4, 2010, which constitute a failure to engage in reasonable efforts to conclude processing or examination.

Applicants' argument has been considered, but is not persuasive.

35 U.S.C. 132(a) states, in pertinent part:

> Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application; and if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined.

MPEP 2732 states, in pertinent part:

> A written restriction requirement, a written election of species requirement, a requirement for information under 37 CFR 1.105, an action under *Ex parte Quayle*, 1935 Comm'r Dec. 11 (1935), and a notice of allowability (PTOL-37) are each an action issued as a result of the examination conducted pursuant to 35 U.S.C. 131. As such, each of these Office actions is a notification under 35 U.S.C. 132.

The restriction requirement mailed on July 30, 2002, met the requirements an Office action pursuant to 35 USC 132. Accordingly, the Office's 14-month clock pursuant to 35 USC 154(b)(1)(A)(i) and 37 CFR 1.702(a)(1) stopped as of July 30, 2002. Furthermore, the reply filed in response to the restriction requirement mailed on July 30, 2002, as well as applicant's reply to any subsequent Office action, are subject to the requirements of 35 USC 154(b)(2)(C)(ii) and (iii) and 37 CFR 1.704(b) and (c) with regards to the determination of a reduction for applicant delay due to a failure to engage in reasonable efforts to conclude processing or examination.

In view thereof, no change will be made in the determination of patent term adjustment at the time of the mailing of the notice of allowance.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20005

MAILED
AUG 24 2011
OFFICE OF PETITIONS

In re Patent No. 7,947,731	:
Tully et al.	: DECISION ON REQUEST FOR
Issue Date: 05/24/2011	: RECONSIDERATION OF
Application Number: 09/927,914	: PATENT TERM ADJUSTMENT
Filing Date: 08/10/2001	:
Attorney Docket Number: 21RE-	:
137270	:
For: AUGMENTED COGNITIVE	:
TRAINING	:

This is a decision on the petition filed on July 25, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand four hundred seventy-six (2476) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED**.

BACKGROUND

On May 24, 2011, the above-identified application matured into U.S. Patent No. 7,947,731, with a revised patent term adjustment of 0 days. On July 25, 2011, patentee timely submitted this

request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 2476.

Patentee asserts entitlement to a "B" delay period beginning on August 11, 2004, three years after the date the application was filed, until May 23, 2011, the date the patent issued. Patentee asserts, in essence, that the period consumed by continued examination, by the filing of a request for continued examination (RCE) on October 30, 2006, should not be excluded from the 3 year delay period. Patentees base their assertion on the fact that "there were no circumstances [during this period] constituting a failure to engage in reasonable efforts to conclude processing or examination of such applications as set forth in § 1.704."

Patentee further asserts that the "B" delay calculation "improperly includes a reduction of 209 days for alleged applicant delay in processing of the application by the Office."

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

Paragraph (3)(C) states that:

The Director shall reinstate all or part of the cumulative period of time of an adjustment under paragraph (2)(C) if the applicant, prior to the issuance of the patent, makes a showing that, in spite of all due care, the applicant was unable to respond within the 3-month period, but in no case shall more than three additional months for each such response beyond the original 3-month period be reinstated.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 587 days based on the application having been filed under 35 U.S.C. 111(a) on August 10, 2001 and the patent not having issued as of the day after the three year date, August 11, 2004, and a request for continued examination (RCE) under 132(b) having been filed on October 30, 2006. In other words, the 1669-day period beginning on the day before the date the RCE was filed and ending on the date of issuance of the patent was considered time consumed by continued examination of an

application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. As stated in § 152(b)(1)(B), any time consumed by continued examination under 35 U.S.C. § 132(b) is excluded from the 3 year delay period. The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any

---

[1] Pursuant to 35 U.S.C. 132(b) , 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

Patentee's apparent argument that the period consumed by continued examination under § 132(b) should not excluded from the "B delay" period because there were no circumstances constituting a failure to engage in reasonable efforts to conclude examination under 37 CFR 1.704 conflates the determination of the "B delay" period with the determination of reductions for applicant delay under not be conflates the period excluded for continued examination under § 1.702(b) with periods of reduction for applicant delay under § 1.704. The determination of the reduction of the period of adjustment pursuant to 35 U.S.C. 154(b)(2)(C) is a separate determination based on the applicant's failure to engage in reasonable efforts to conclude prosecution of the application. The determination of the "B delay" period is simply the period beginning on the day after the date three years after the date the application was filed and ending on the date the application issues as a patent, not including, the period consumed by continued examination under § 132(b). There is no provision to adjust the "B delay" period based on a dispute of periods under 1.704.

It is further noted that petitioner has not stated any basis for its argument that the period of reduction under § 1.704 is

incorrect. Still further, petitioner's assertion that "the USPTO made an improperly narrow Restriction Requirement on 30 July 2002" which delayed prosecution concerns the calculation of delay under 37 CFR 1.702(a), rather than § 1.704.

As stated in the decision mailed on April 18, 2011, the restriction requirement mailed on July 30, 2002 met the requirements of an Office action pursuant to 35 USC 132. Accordingly, the Office's 14-month clock pursuant to 35 USC 154(b)(1)(A)(i) and 37 CFR 1.702(a)(1) stopped as of July 30, 2002. Furthermore, the reply filed in response to the restriction requirement mailed on July 30, 2002 as well as applicant's reply to any subsequent Office actions, are subject to the requirements of 35 USC 154(b)(2)(C)(ii) and (iii) and 37 CFR 1.704(b) and (c) with regards to the determination of a reduction for applicant delay due to a failure to engage in reasonable efforts to conclude processing or examination.

Pursuant to 35 U.S.C. 154(b)(1)(A)(i)&(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the failure of the Office to (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after the date on which an application was filed under section 111(a) of this title; or (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken.

Lastly, as noted above 35 USC 154(b)(1)(B)(iii) states that any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. Petitioner has not shown, in accordance with § 154(b)(3)(C) that, in spite of all due care, the applicant was unable to respond within the 3-month period.

In this instance, a request for continued examination was filed on October 30, 2006, and the patent issued by virtue of that request on May 24, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on October 30, 2006 and ending on May 24, 2011 is not included in calculating Office delay.

Patentees additionally dispute the period of time excluded from B delay for appellate review. Patentees' argument has been considered, but not found persuasive. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (*e.g.*, the filing of a request for continued examination). In this instance the period consumed by appellate review is 210 days, consisting of the period beginning on April 3, 2006, the date of filing of the notice of appeal and ending on October 29, 2006, the before the date of the filing of the subsequent RCE. Thus, B delay is 600 (810 - 210) days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 0 days indicated on the patent is correct.

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

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Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KILLWORTH, GOTTMAN, HAGAN & SCHAEFF, L.L.P.
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MAILED
AUG 10 2011
OFFICE OF PETITIONS

In re Patent No. 6,571,719	:	
Issue Date: 06/03/2003	:	
Application Number: 09/928,877	:	LETTER
Filing Date: 08/13/2001	:	
For: HORIZONTAL SEAM BOXCAR SIDE WALL	:	

This is a decision on the petition, styled under 37 CFR 1.378(c),[1] filed on June 20, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed** for the reason stated below.

The petition lacks the fee required by 37 CFR 1.378(c)(1) and (c)(2).

---

[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:

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

A review of Office financial records reveals that, although the maintenance fee and surcharge were received with the petition, the fees totaling $2,880.00 were refunded to patentee's credit card on August 3, 2011.

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.[2] 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.

Patentee should resubmit the maintenance fee and surcharge, although with a renewed petition.

A reply to this communication **must** be submitted within ONE (1) MONTH of receipt of this communication. **This time period is not extendable.**[3]

The address listed on the petition is different than the correspondence address of record. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this patent will be mailed solely to the address of record. 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 PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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[2] 37 CFR 1.22(a).
[3] 37 CFR 1.181(f).

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

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

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DW Aug-11

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MAILED
AUG 16 2011
OFFICE OF PETITIONS

In re Patent No. 6,571,719	:	
Issue Date: 06/03/2003	:	
Application Number: 09/928,877	:	ON PETITION
Filing Date: 08/13/2001	:	
For: HORIZONTAL SEAM BOXCAR SIDE WALL	:	

This is a revised decision on the petition under 37 CFR 1.378(c), filed on June 20, 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 3, 2011, for failure to timely pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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 statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in paying the maintenance fee was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The 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 should be filed if the correspondence address needs to be updated.

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

D Wood

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Office of Petitions

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Paper No.

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MAILED

NOV 18 2011

OFFICE OF PETITIONS

In re Application of :
Qu et al. :
Application No. 09/928,883 :
Patent No. 7,220,365 :
Filed: August 13, 2001 :
Issue Date: May 22, 2007 :
Attorney Docket Number: :
9128P004 :
Title: DEVICES USING A MEDIUM :
HAVING A HIGH HEAT TRANSFER :
RATE :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.378(C)

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 May 22, 2007. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on May 22, 2011, with no payment received. Accordingly, the patent expired on May 22, 2011 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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

SD3, LLC
9564 S.W. Tualatin Road
Tualatin, OR 97062

Mail Date: 09/17/2010

Applicant	: Stephen F. Gass	: DECISION ON REQUEST FOR
Patent Number	: 7610836	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 09/929,236	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 08/13/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **802** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

SD3, LLC
9564 S.W. Tualatin Road
Tualatin, OR 97062

In re Patent of Gass et al.	:	
Patent No. 7,610,836	:	
Issue Date: November 3, 2009	:	DECISION ON PETITION
Application No. 09/929,236	:	
Filing Date: August 13, 2001	:	
Attorney Docket No. STD 307	:	

This is a decision responding to the "Reply to a Decision Dismissing a Request for Recalculation of a Patent Term Adjustment in View of Wyeth" filed April 28, 2010, which is being treated as a petition under 37 C.F.R. § 1.181.

The petition is **granted**.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" form was filed April 14, 2010. The Office issued a decision dismissing the request on April 22, 2010. The instant petition was filed April 28, 2010. The petition asserts the dismissal of the April 14, 2010 request was improper.

The Office has reviewed the record and determined the dismissal of the April 14, 2010 request was improper as alleged in the instant petition.

The decision mailed April 22, 2010, is withdrawn and a new decision responding to the April 14, 2010 request will be issued in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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Corporate Patent Counsel
nLight Photonics
5408 NE 88th Street Building E
Vancouver WA 98665

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Patent No. 6,665,471 :
Issue date: December 16, 2003 :
Application No. 09/929,837 : ON PETITION
Filed: August 13, 2001 :
Attorney Docket No. NLIGHT-FULB003 :
For: SYSTEM AND METHOD FOR OPTIMIZING THE PERFORMANCE OF A MULTIPLE GAIN ELEMENT LASER

This is a decision on the petition under 37 CFR 1.378(b), filed February 10, 2012 (certificate of mailing date February 7, 2012) to accept an unavoidably delayed payment of the 7 ½ year 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. The petition for reconsideration should include an exhaustive attempt to provide the lacking item 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 December 16, 2003. The 7 ½ year maintenance fee could have been paid from December 16, 2010 through June 16, 2011, or with a surcharge during the period from June 17, 2011 through December 16, 2011. The 7 ½ year maintenance fee was not timely paid. Accordingly, the patent expired on December 17, 2011.

Statute and Regulation

37 CFR 1.378(a) provides that the Director may accept the payment of any maintenance fee due on a patent based on an expiration of the patent, if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional. The appropriate surcharge set forth in § 1.20(i) must be paid as a condition of accepting payment of the maintenance fee. The surcharges set at 37 CFR 1.20(i) are established

pursuant to 35 U.S.C. 41(c) and, therefore, are not subject to small entity provisions of 35 U.S.C. 41(h). No separate petition fee is required for this petition. If the Director accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired but will be subject to the intervening rights and provisions of 35 U.S.C. 41(c)(2).

The patent statute at 35 U.S.C. 41(c)(1) provides as follows:

> "The Director may accept the payment of any maintenance fee required by subsection (b) of this section... 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 statute's promulgating rule, 37 CFR 1.378(b), provides that any petition to accept the delayed payment of a maintenance fee must include the following:

> (1) the required maintenance fee set forth in 37 CFR 1.20(e) - (g);
>
> (2) the surcharge set forth in 37 CFR 1.20(i)(1); and
>
> (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The 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. Such as statement must be verified if made by a person not registered to practice before the Patent and Trademark Office. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

Opinion

Petitioner, NLIGHT Photonics Corporation (assignee), asserts that the delay in payment of the 7 ½ year maintenance fee was unavoidable because petitioner did not receive any Office correspondence related to the patent, including maintenance fee reminders. Control over the patent was transferred from an outside firm to nLIGHT internal patent counsel during June or July of 2011. Unfortunately, the firm changed the fee address for all patents that it formerly handled to an incorrect customer number – in other words, a customer number **not** associated with nLIGHT patent counsel. As a result, nLIGHT internal patent counsel did not receive any Office correspondence pertaining to this patent.

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

Petitions for the delayed payment of maintenance fees under 35 U.S.C. 41(c)(1) are treated under the same standard as petitions for revival of abandoned applications under 35 U.S.C. 133 because both statutory provisions use the same language, i.e., "unavoidable" delay. Ray v. Leyman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 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). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable as follows:

> 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 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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-168 (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. Massinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). The requirement in 35 U.S.C. 133 for a showing of unavoidable delay requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable (or expiration of the patent as it applies to 35 U.S.C. 41(c)(1)), but also a showing of unavoidable delay from the time an applicant becomes aware of the abandonment of the application until the filing of a petition to revive (or a petition under 37 CFR 1.378(b) to reinstate the patent under 35 U.S.C. 41(c)(1)). See In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990). 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, 316-317, 5 USPQ2d 1130, 1131-1132 (N.D. Ind. 1987).

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. Consequently, a reasonably prudent person in the exercise of due care and diligence will take steps to ensure the timely payment of maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. Thus, it follows that an adequate showing of unavoidable delay in payment of a maintenance fee, 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 the patent. Id. 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.

In view of the requirement to enumerate the steps taken to ensure timely payment of the 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. *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). Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office's 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. Rydeen v. Quigg, 748 F. supp. at 900.

The record fails to show that petitioner took adequate steps to ensure timely payment of the maintenance fee. In re Patent No. 4,461,759, 16 USPQ2d 1883, 1884 (Comm'r Pat. 1990).

Petitioner must demonstrate, via a documented showing, that despite reasonable care by petitioner to implement reasonable steps to ensure the timely payment of the maintenance fee, the maintenance fee was nevertheless, unavoidably not paid.

It is incumbent upon petitioner to demonstrate, ***via a documented showing***, that this patent was docketed for the second maintenance fee payment in a reliable tracking system. The former counsel transferred control over this patent to petitioner prior to the due date for the maintenance fee. It appears that no one was monitoring the due date for the second maintenance fee payment.

Petitioner is advised that delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay. In Re Kim, 12 U.S.P.Q.2d 1595 (Comm'r Pat. 1988). 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. 1.378(b). See Ray, at 610, 34 U.S.P.Q.2d at 1789.

The record fails to disclose that petitioner took reasonable steps to ensure timely payment of the maintenance fee. The current record indicates that no steps were taken by petitioner to ensure timely payment of the 7 ½ year maintenance fee. It appears that petitioner's payment of the maintenance fee hinged on receiving an Office reminder.

In short, petitioner has not demonstrated, via a documented showing, that there was a reliable tracking system in place to monitor the due dates of maintenance fees and that a responsible party had docketed this patent in that system. Evidence should be submitted which demonstrates that despite reasonable care by petitioner to implement reasonable steps to ensure the timely payment of the maintenance fees, the maintenance fee was nevertheless, unavoidably not paid.

The PATENT-POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS, filed February 10, 2012 has been entered and made of record. Please find enclosed a NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY.

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

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

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

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

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

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)

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/929,837	08/13/2001	Jason N. Farmer	60988-P008US-10103492

CONFIRMATION NO. 8824

POA ACCEPTANCE LETTER

OC000000053310164

11014
Corporate Patent Counsel
nLight Photonics
5408 NE 88th Street Building E
Vancouver, WA 98665

Date Mailed: 03/23/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/07/2012.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6671586	2003-12-30	09929926	2001-08-15	35361-413375

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

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

LOSS 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	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Brenda O. Holmes/	Date (YYYY-MM-DD)	2012-02-27
Name	Brenda O. Holmes	Registration Number	40339

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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In re Patent No. 6671586
Issue Date: December 30,2003
Application No. 09929926
Filed: August 15,2001
Attorney Docket No. 081607-1220

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

This is a decision on the electronic petition, filed February 27,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 27,2012 . 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

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

CHARLES J. KULAS
CARPENTER & KULAS LLP
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Samra, et al.	:	
Application No. 09/930,115	:	DECISION
Filed/Deposited: 14 August, 2001	:	
Attorney Docket No. 020699-004800US	:	

This is a decision on the petition filed on 14 March, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly, to the decision of the Board of Patent Appeals and Interferences (BPAI) mailed on 9 December, 2010, with reply due on or before 9 February, 2011 (37 C.F.R. §1.304).

The application went abandoned by operation of law after midnight 9 February 2011.

The Office mailed the Notice of Abandonment on 22 February, 2011.

On 14 March, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2826 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) 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

[4] 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 attdance 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.

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,422	08/15/2001	Peter Ar-Fu Lam	DISPMT1	1550

7590 08/20/2010

Peter Ar-Fu Lam
20104 Wayne Ave.
Torrance, CA 90503

EXAMINER
BUCHANAN, CHRISTOPHER R

ART UNIT	PAPER NUMBER
3627	

MAIL DATE	DELIVERY MODE
08/20/2010	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
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AUG 20 2010

Peter Ar-Fu Lam
20104 Wayne Avenue
Torrance, CA 90503

In re Application of Peter Ar-Fu Lam Application No. 09/930,422 Filed: August 15, 2001 For: BODY PROFILE CODING METHOD AND APPARATUS USEFUL FOR ASSISTING USERS TO SELECT WEARING APPAREL	:	DECISION ON PETITION UNDER 37 CFR §1.181

This is a decision on applicant's communication denominated "Renewed Petition to Director - according to 37 CFR 1.181(a)(1)" filed May 10, 2010, which will be treated as a petition requesting supervisory review.

The petition is **DISMISSED.**

Petitioner asserts that "upon repeatedly review [of] the [December 22, 2009] office action, and fully considered the guideline provided by the [March 11, 2010] decision, the applicant is still unable to understand how the m different physical dimensional parameters are disclosed by Spackova." Petitioner requests supervisory review of "the language of the office action and help applicant to understand the meaning of the office action."

Discussion

A review of the final Office action mailed December 22, 2009 indicates that claim 40 is rejected under 35 USC 103(a) as being obvious over Spackova in view of Aisaka. In regards to petitioner's request for an explanation of how the limitation "specifying the positions of the body to be measured for defining m different physical dimensional parameters of said human body" is taught by Spackova, the examiner indicates in the December 22, 2009 that "indicia (74) shown in Fig. 3 specify the position" and that "the indicia segments (72) and coded indicia (74) are used to define various physical parameters of a subject wearing a form fitting garment, col. 4, line 1+, see Fig. 3." Accordingly, the examiner has clearly set forth the features of Spackova that disclose the claimed limitation. Accordingly, no further clarification is needed.

If petitioner is of the opinion that Spackova does not teach the limitation "specifying the positions of the body to be measured for defining m different physical dimensional

parameters of said human body," the question thereby raised is related to the merits, and thus is not petitionable, as set forth in MPEP 1201.

It is noted that a non-final Office action was mailed June 2, 2010 in response to the Request for Continued Examination filed March 11, 2010. The application will be returned to the examiner's docket awaiting a response to the June 2, 2010 Office action.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181."

Questions concerning this decision should be referred to Teri Luu, Quality Assurance Specialist, at (571) 272-7045.

Katherine Matecki
for Wynn Coggins, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5350

WG/tl: 08/18/10
TL

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW Apr-11

Paper No.

VICTOR E. VELAZQUEZ
P.O. BOX 8538
HUMACAO PR 00792

MAILED
APR 18 2011
OFFICE OF PETITIONS

In re Patent No. 6,699,226 :
Issue Date: 03/02/2004 :
Application Number: 09/930,639 : DECISION ON PETITION
Filing Date: 08/14/2011 :
For: DEVICES, METHODS, AND KITS :
FOR COLLECTING SEMEN :

This is a decision on the petition filed on March 2, 2011, under 37 CFR § 1.378(b) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed as moot**.

The patent issued on March 2, 2004. The first maintenance fee was timely paid on August 13, 2007. The window for payment of the second maintenance fee opened on March 2, 2011, and the fee is due with a surcharge on September 3, 2011.

Petitioner has submitted the first and second maintenance fee payments, as well as the surcharge required under 37 CFR 1.378(b).

As the first maintenance fee was previously timely paid, the 3.5 year maintenance fee payment is unnecessary. Further, as the window for payment of the second maintenance fee is now open, the 7.5 year maintenance fee may be accepted as timely paid.

A copy of the maintenance fee statement for the first maintenance fee as well as a copy of the maintenance fee window dates is enclosed for petitioner's reference.

The first maintenance fee and surcharge amounts will be refunded to petitioner.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl:

Maintenance Fee Statement
Maintenance Fee Window Dates

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Customer No 000000 ISTMT DATE PRINTED 04/12/2011

Victor E. Velazquez
P.O. Box 8538
Humacao PR 00792

MAINTENANCE FEE STATEMENT

According to the records of the U.S.Patent and Trademark Office (USPTO), the maintenance fee and any necessary surcharge have been timely paid for the patent listed below. The "PYMT DATE" column indicates the payment date (i.e., the date the payment was filed).

The payment shown below is subject to actual collection. If the payment is refused or charged back by a financial institution, the payment will be void and the maintenance fee and any necessary surcharge unpaid.

Direct any questions about this statement to: Mail Stop M Correspondence, Director of the USPTO, P.O.Box 1450, Alexandria, VA 22313-1450.

PATENT NUMBER	FEE AMT	SUR CHARGE	PYMT DATE	U.S. APPLICATION NUMBER	PATENT ISSUE DATE	APPL. FILING DATE	PAYMENT YEAR	SMALL ENTITY?	ATTY DKT NUMBER
6,699,226	**$450.00**	**$0.00**	**08/13/07**	**09/930,639**	**03/02/04**	**08/14/01**	**04**	**YES**	

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United States Patent and Trademark Office

Maintenance Fees Window Dates

04/12/2011 12:05 PM EDT

Patent Number: 6699226

Application Number: 09930639

	4th Year	8th Year	12th Year
Open Date	03/02/2007	03/02/2011	03/02/2015
Surcharge Date	09/05/2007	09/03/2011	09/03/2015
Close Date	03/03/2008	03/02/2012	03/02/2016

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OFFICE OF PETITIONS

DORSEY & WHITNEY LLP
INTELLECTUAL PROPERTY DEPARTMENT
COLUMBIA CENTER
701 FIFTH AVENUE, SUITE 6100
SEATTLE WA 98104-7043

In re Application of		
Robert AILINGER et al.	:	
Application No. 09/930,712	:	
Filed: August 14, 2001	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 6,733,440	:	
Issue Date: May 11, 2004	:	
Attorney Docket No. 500600.07		

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

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OCT 01 2010
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ACCENTURE/FINNEGAN,
HENDERSON
FARABOW GARRETT & DUNNER LLP
901 NEW YORK AVENUE
WASHINGTON DC 20001-4413

In re Application of	:	
Sloan, et al.	:	
Application No. 09/930,786	:	ON REQUEST FOR
Filed: August 15, 2001	:	RECONSIDERATION OF
Attorney Docket Number: 10761.0304-01	:	PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 14, 2010. Applicants believe that they should be accorded an additional PTA of 485 days. Applicants request this correction in part due to the fact that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

However, Applicants point out that additional PTO and Applicant delay should have been assessed. Applicants filed an RCE on September 12, 2005. However, the Office did not mail a response until October 31, 2007. Accordingly, PTO delay of 657 days should have been accorded pursuant to 37 CFR 1.702(a)(2). In addition, Applicants should have been assessed additional delay pursuant to 37 CFR 1.704(c)(8). Subsequent to filing the RCE, Applicants filed multiple Information Disclosure Statements, the last one on March 23, 2007. As such, 557 days of Applicant delay should have been assessed for filing these supplemental papers.

In addition, a review of the file reveals that Applicants should have been assessed additional delay on three separate occasions pursuant to 37 CFR 1.704(c)(10). The Office first mailed a Notice of Allowance on June 24, 2009. In response, Applicants filed an RCE on September 23, 2009. The Office mailed a subsequent Notice of Allowance on November 12, 2009. Accordingly, pursuant to 37 CFR 1.704(c)(10), 51 days of Applicant delay should have been assessed. In response to the November 12, 2009 Notice of Allowance, Applicants again filed an RCE on February 1, 2010. The Office mailed a subsequent Notice of Allowance on February 19, 2010. Accordingly, pursuant to 37 CFR 1.704(c)(10), 19 days of Applicant delay should have been assessed. Finally, Applicants filed yet another RCE (in response to the February 19, 2010 Notice of Allowance) on March 24, 2010. The Office mailed a subsequent Notice of Allowance on April 19, 2010. Accordingly, pursuant to 37 CFR 1.704(c)(10), 27 days of Applicant delay should have been assessed.

In view thereof, the correct determination of PTA prior to issuance is **three hundred twenty-nine (329) days** (1094 (429+8+657) days of PTO delay, reduced by 765(75+35+1+557+51+19+27) days of Applicant delay).

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[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

Enc: copy of PAIR screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 09930786 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 09930786

Application Filing Date	08/15/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	437
A Delays	437	PTO Manual Adjustment	3
B Delays	0	Applicant Delay (APPL)	111
C Delays	0	Total PTA (days)	329

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
200	09/25/2010		P028	Adjustment of PTA Calculation by PTO		654	0
199	09/25/2010		P028	Adjustment of PTA Calculation by PTO	657		0
182	04/19/2010		MN/=.	Mail Notice of Allowance			0
181	04/14/2010		IREV	Issue Revision Completed			0
180	04/14/2010		DVER	Document Verification			0
179	04/14/2010		N/=.	Notice of Allowance Data Verification Completed			0
178	04/12/2010		EX.A	Examiner's Amendment Communication			0
177	04/12/2010		CNTA	Notice of Allowability			0
170	03/26/2010		ABN9	Disposal for a RCE / CPA / R129			0
174	03/24/2010		IDSC	Information Disclosure Statement considered			0
173	03/24/2010		M844	Information Disclosure Statement (IDS) Filed			0
172	03/24/2010		RCAP	Reference capture on IDS			0
171	03/24/2010		RCEX	Request for Continued Examination (RCE)			0
169	03/24/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
168	03/24/2010		BRCE	Workflow - Request for RCE - Begin			0
167	02/22/2010		EIDC	Export to Initial Data Capture			0
166	02/19/2010		ELC_RVW	Electronic Review			0
165	02/19/2010		EML_NTR	Email Notification			0
164	02/19/2010		EML_NTF	Email Notification			0
163	02/19/2010		MEX.A	Mail Examiner's Amendment			0
162	02/19/2010		MN/=.	Mail Notice of Allowance			0
161	02/12/2010		IREV	Issue Revision Completed			0
160	02/12/2010		N/=.	Notice of Allowance Data Verification Completed			0
159	02/12/2010		DVER	Document Verification			0
158	02/12/2010		EX.A	Examiner's Amendment Communication			0
157	02/12/2010		CNTA	Notice of Allowability			0
150	02/05/2010		ABN9	Disposal for a RCE / CPA / R129			0
154	02/01/2010		IDSC	Information Disclosure Statement considered			0
153	02/01/2010		RCAP	Reference capture on IDS			0
152	02/01/2010		M844	Information Disclosure Statement (IDS) Filed			0
151	02/01/2010		RCEX	Request for Continued Examination (RCE)			0
149	02/01/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
148	02/01/2010		BRCE	Workflow - Request for RCE - Begin			0
147	11/13/2009		EIDC	Export to Initial Data Capture			0
146	11/12/2009		ELC_RVW	Electronic Review			0
145	11/12/2009		EML_NTR	Email Notification			0
144	11/12/2009		EML_NTF	Email Notification			0
143	11/12/2009		MEX.A	Mail Examiner's Amendment			0
142	11/12/2009		MN/=.	Mail Notice of Allowance			0
141	11/07/2009		IREV	Issue Revision Completed			0
140	11/07/2009		DVER	Document Verification			0
139	11/07/2009		N/=.	Notice of Allowance Data Verification Completed			0
138	10/24/2009		EX.A	Examiner's Amendment Communication			0
137	10/24/2009		CNTA	Notice of Allowability			0
132	10/06/2009		DOCK	Case Docketed to Examiner in GAU			0
131	09/29/2009		FIDC	Finished Initial Data Capture			0
128	09/26/2009		FWDX	Date Forwarded to Examiner			0
126	09/26/2009		ABN9	Disposal for a RCE / CPA / R129			0
133	09/23/2009		IDSC	Information Disclosure Statement considered			0
130	09/23/2009		RCAP	Reference capture on IDS			0
129	09/23/2009		M844	Information Disclosure Statement (IDS) Filed			0
127	09/23/2009		RCEX	Request for Continued Examination (RCE)			0
125	09/23/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
124	09/23/2009		BRCE	Workflow - Request for RCE - Begin			0
123	06/29/2009		EIDC	Export to Initial Data Capture			0
122	06/24/2009		MEX.A	Mail Examiner's Amendment			0
121	06/24/2009		MN/=.	Mail Notice of Allowance			0
120	06/22/2009		IREV	Issue Revision Completed			0
119	06/20/2009		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
118	06/20/2009		DVER	Document Verification			0
117	06/20/2009		N/=.	Notice of Allowance Data Verification Completed			0
116	06/20/2009		DOCK	Case Docketed to Examiner in GAU			0
114	06/19/2009		EX.A	Examiner's Amendment Communication			0
113	06/19/2009		CNTA	Notice of Allowability			0
115	06/18/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
109	04/09/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
108	04/07/2009		C.AD	Correspondence Address Change			0
106	04/07/2009		FWDX	Date Forwarded to Examiner			0
107	03/18/2009		C614	New or Additional Drawing Filed			0
105	03/18/2009		A.QU	Response after Ex Parte Quayle Action			0
104	02/03/2009		MCTEQ	Mail Ex Parte Quayle Action (PTOL - 326)			0
103	02/02/2009		CTEQ	Ex Parte Quayle Action			0
101	11/25/2008		FWDX	Date Forwarded to Examiner			0
100	10/14/2008		A...	Response after Non-Final Action			0
102	08/04/2008		IDSC	Information Disclosure Statement considered			0
99	08/04/2008		M844	Information Disclosure Statement (IDS) Filed			0
96	08/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
95	07/25/2008		MCTNF	Mail Non-Final Rejection			0
94	07/21/2008		CTNF	Non-Final Rejection			0
90	05/17/2008		FWDX	Date Forwarded to Examiner			0
88	05/17/2008		FWDX	Date Forwarded to Examiner			0
86	05/17/2008		ABN9	Disposal for a RCE / CPA / R129			0
93	05/07/2008		IDSC	Information Disclosure Statement considered			0
92	05/07/2008		RCAP	Reference capture on IDS			0
91	05/07/2008	05/07/2008	M844	Information Disclosure Statement (IDS) Filed			87
89	05/07/2008		AMPR	RCE- AF Processed			0
87	05/07/2008		RCEX	Request for Continued Examination (RCE)			0
[illegible]	[illegible]		[illegible]	[illegible]			[illegible]

85	05/07/2008		WIDS	Information Disclosure Statement (IDS) Filed				0
84	05/07/2008		BRCE	Workflow - Request for RCE - Begin				0
83	04/24/2008		MCTAV	Mail Advisory Action (PTOL - 303)				0
82	04/23/2008		CTAV	Advisory Action (PTOL-303)				0
81	04/17/2008		FWDX	Date Forwarded to Examiner				0
80	04/14/2008		A.NE	Amendment after Final Rejection				0
79	02/15/2008		MCTFR	Mail Final Rejection (PTOL - 326)				0
78	02/14/2008		CTFR	Final Rejection				0
77	12/05/2007		FWDX	Date Forwarded to Examiner				0
76	11/26/2007		A...	Response after Non-Final Action				0
75	11/16/2007		FLRCPT.C	Filing Receipt - Corrected				0
98	10/31/2007		IDSC	Information Disclosure Statement considered				0
97	10/31/2007		WIDS	Information Disclosure Statement (IDS) Filed				0
74	10/31/2007		M844	Information Disclosure Statement (IDS) Filed				0
72	10/31/2007		MNRES	Mail Notice of Restarted Response Period				0
71	10/18/2007		NRES	Letter Restarting Period for Response (i.e. Letter re: References)				0
63	06/22/2007		LET.	Miscellaneous Incoming Letter				0
70	03/23/2007		IDSC	Information Disclosure Statement considered				0
62	03/23/2007		WIDS	Information Disclosure Statement (IDS) Filed				0
69	03/22/2007		IDSC	Information Disclosure Statement considered				0
59	03/22/2007		RCAP	Reference capture on IDS				0
58.7	03/22/2007		M844	Information Disclosure Statement (IDS) Filed				0
60	02/26/2007		LET.	Miscellaneous Incoming Letter				0
68	11/02/2006		IDSC	Information Disclosure Statement considered				0
57.7	11/02/2006		M844	Information Disclosure Statement (IDS) Filed				0
57	11/02/2006		WIDS	Information Disclosure Statement (IDS) Filed				0
56	10/05/2006		DOCK	Case Docketed to Examiner in GAU				0
67	09/15/2006		IDSC	Information Disclosure Statement considered				0
55	09/15/2006		RCAP	Reference capture on IDS				0
54.7	09/15/2006		M844	Information Disclosure Statement (IDS) Filed				0
54	09/15/2006		WIDS	Information Disclosure Statement (IDS) Filed				0
66	05/01/2006		IDSC	Information Disclosure Statement considered				0
53	05/01/2006		RCAP	Reference capture on IDS				0
52.7	05/01/2006		M844	Information Disclosure Statement (IDS) Filed				0
52	05/01/2006		WIDS	Information Disclosure Statement (IDS) Filed				0
51	01/20/2006	01/12/2006	MCTNF	Mail Non-Final Rejection	0			44
65	12/13/2005		IDSC	Information Disclosure Statement considered				0
50	12/13/2005		RCAP	Reference capture on IDS				0
49.7	12/13/2005		M844	Information Disclosure Statement (IDS) Filed				0
49	12/13/2005		WIDS	Information Disclosure Statement (IDS) Filed				0
48	11/28/2005		CTNF	Non-Final Rejection				0
47	09/16/2005		FWDX	Date Forwarded to Examiner				0
45	09/16/2005		FWDX	Date Forwarded to Examiner				0
43	09/16/2005		ABN9	Disposal for a RCE / CPA / R129				0
46	09/12/2005		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE				0
44	09/12/2005		RCEX	Request for Continued Examination (RCE)				0
42	09/12/2005		BRCE	Workflow - Request for RCE - Begin				0
64	08/15/2005		IDSC	Information Disclosure Statement considered				0
41.7	08/15/2005		M844	Information Disclosure Statement (IDS) Filed				0
41	08/15/2005		WIDS	Information Disclosure Statement (IDS) Filed				0
40	06/16/2005		MCTFR	Mail Final Rejection (PTOL - 326)				0
39	05/03/2005		CTFR	Final Rejection				0
36	02/23/2005		FWDX	Date Forwarded to Examiner				0
38	02/18/2005		RCAP	Reference capture on IDS				0
37.7	02/18/2005	02/17/2005	M844	Information Disclosure Statement (IDS) Filed		1		35
37	02/18/2005		WIDS	Information Disclosure Statement (IDS) Filed				0
35	02/17/2005		A...	Response after Non-Final Action				0
34	01/12/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete				0
33	11/26/2004		RCAP	Reference capture on IDS				0
32.7	11/26/2004		M844	Information Disclosure Statement (IDS) Filed				0
32	11/26/2004		WIDS	Information Disclosure Statement (IDS) Filed				0
30	11/18/2004		MCTNF	Mail Non-Final Rejection				0
29	11/15/2004		CTNF	Non-Final Rejection				0
28	10/20/2004		DOCK	Case Docketed to Examiner in GAU				0
27	10/20/2004		DOCK	Case Docketed to Examiner in GAU				0
26	10/07/2004		FWDX	Date Forwarded to Examiner				0
25	09/27/2004		A.NE	Amendment after Final Rejection				0
24	07/27/2004		MCTFR	Mail Final Rejection (PTOL - 326)				0
23	07/24/2004		CTFR	Final Rejection				0
22	05/19/2004		FWDX	Date Forwarded to Examiner				0
21	04/22/2004	03/18/2004	A...	Response after Non-Final Action		35		16
20	04/22/2004		XT/G	Request for Extension of Time - Granted				0
19	04/22/2004		WAMD	Workflow incoming amendment IFW				0
18.7	02/18/2004		M844	Information Disclosure Statement (IDS) Filed				0
18	02/18/2004		WIDS	Information Disclosure Statement (IDS) Filed				0
17.7	01/05/2004		M844	Information Disclosure Statement (IDS) Filed				0
17	01/05/2004		WIDS	Information Disclosure Statement (IDS) Filed				0
16	12/18/2003	10/15/2002	MCTNF	Mail Non-Final Rejection	429			-1
15	12/08/2003		CTNF	Non-Final Rejection				0
11	02/13/2003		DOCK	Case Docketed to Examiner in GAU				0
10	02/13/2003		DOCK	Case Docketed to Examiner in GAU				0
13	12/17/2002		A.PE	Preliminary Amendment				0
31	11/18/2002		RCAP	Reference capture on IDS				0
14.7	11/18/2002		M844	Information Disclosure Statement (IDS) Filed				0
14	11/18/2002		WIDS	Information Disclosure Statement (IDS) Filed				0
9	05/02/2002		DOCK	Case Docketed to Examiner in GAU				0
8	04/25/2002		OIPE	Application Dispatched from OIPE				0
7	04/16/2002		COMP	Application Is Now Complete				0
6	02/26/2002	12/13/2001	ADDFLFEE	Additional Application Filing Fees		75		4
5	02/26/2002		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems				0
12	11/20/2001		A.PE	Preliminary Amendment				0
4	09/13/2001		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned				0
3	09/12/2001		C.AD	Correspondence Address Change				0
2	08/24/2001		SCAN	IFW Scan & PACR Auto Security Review				0
61	08/15/2001		LET.	Miscellaneous Incoming Letter				0
1	08/15/2001		IEXX	Initial Exam Team nn				0

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RIVERBED TECHNOLOGY INC. –PVF
C/O PARK VAUGHAN FLEMING & DOWLER LLP
2820 FIFTH STREET
DAVIS, CA 95618

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,278,159	:	
Issue Date: October 2, 2007	:	
Application No. 09/931,291	:	ON PETITION
Filed: August 16, 2001	:	
Attorney Docket No. RIV-0710	:	

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2011, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Niomi Farmer at (703) 308-9250 ext. 119.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Fax (571) 270-9753.

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MAY 16 2011

OFFICE OF PETITIONS

RIVERBED TECHNOLOGY INC. -PVF
C/O PARK VAUGHAN FLEMING & DOWLER LLP
2820 FIFTH STREET
DAVIS, CA 95618

In re Patent No. 7,124,440	:	
Issue Date: October 17, 2006	:	
Application No. 09/931558	:	ON PETITION
Filed: August 16, 2001	:	
Attorney Docket No. RIV-0690	:	

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2011, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Niomi Farmer at (703) 308-9250 ext. 119.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Fax (571) 270-9753.

UNITED STATES PATENT AND TRADEMARK OFFICE

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RIVERBED TECHNOLOGY INC. –PVF
C/O PARK VAUGHAN FLEMING & DOWLER LLP
2820 FIFTH STREET
DAVIS, CA 95618

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,043,759 :
Issue Date: May 9, 2006 :
Application No. 09/931,561 : ON PETITION
Filed: August 16, 2001 :
Attorney Docket No. RIV-0680 :

This is a decision on the petition under 37 CFR 1.182, filed March 1, 2011, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **granted**.

The Publishing Division is directed to issue duplicate Letter Patent.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of the duplicate Letters Patent should be directed to either Niomi Farmer at (703) 308-9250 ext. 119.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Fax (571) 270-9753.

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GREENBERG TRAURIG (NY)
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of :
David Chao et al. :
Application No. 09/931,693 :
Filed: August 16, 2001 :
Attorney Docket No. **7115.024** :

NOTICE

This is a notice regarding your request filed June 9, 2011 , 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**.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Barry J. Schindler appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Barry J. Schindler desires to be acknowledged as the attorney of record in this file, the appropriate power of attorney documents must be submitted.

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) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DARBY & DARBY P.C.
805 THIRD AVENUE
NEW YORK, NY 10022

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Patent No. 6,532,002	:	ON PETITION
Issue Date: March 11, 2003	:	
Application No. 09/932,391	:	
Filed: August 17, 2001	:	
Attorney Docket No. 2658/1F650US1	:	

This is a decision in response to a petition filed April 18 2011, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 12, 2011, for failure to pay the 7 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).

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.

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

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Patent: 6,865,759
Inventor: Tony PEARCE
Application No. 09/932,393
Filed: August 17, 2001

DECISION ON PETITION

This is a decision on the petition filed February 26, 2010, that is seeking to expunge information identified in the instant petition, "from any and all of (a) the prosecution history, (b) the published patent application, and (c) the issued patent."

The petition to expunge is **DISMISSED**.

The material being sought to be expunged forms part of the original disclosure. A petition to expunge a part of the original disclosure must be filed under 37 CFR 1.183, since such a request requires a waiver of the requirements of 37 CFR 1.59(a). Petitions under 37 CFR 1.183 should be directed to the Office of Petitions. The petition must explain why justice requires waiver of the rules to permit the requested material to be expunged. *See Manual of Patent Examining Procedure (MPEP) § 724.05(IV)*. In seeking the expungement, petitioner states, "[h]owever, the undersigned has been requested by the OED to pursue removal of the material in order to bring the case into compliance with MPEP 608.01(r). Accordingly, the undersigned respectfully petitions the Office to expunge the identified material." The instant petition is not accompanied by a copy of the directive from OED.

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. In this instance, the petition under 37 CFR 1.183 requires a fee under 37 CFR 1.17(f) that is currently $400. The petition in the above-identified application was <u>not</u> accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.183". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272 - 4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: Daniel McCarthy
2053 Pinetree Village
Brighton, Utah 84121

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FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of	:	
Beltzer et al.	:	
Application No. 09/932,613	:	DECISION ON PETITION
Filed: August 17, 2001	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. DYXHGS-025.1 US	:	

This is a decision on the petition under 37 CFR § 1.78(a)(6), filed November 10, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for benefit of priority to prior-filed provisional application No. 60/226,700 set forth in the concurrently filed application data sheet. Applicant requests that the above priority claim be perfected in the above-identified application, which is now abandoned.

For the reasons stated below, the petition under 37 CFR 1.78(a)(6) is **DISMISSED AS MOOT**. To perfect the claim in this abandoned application, a petition under 37 CFR 1.182 (including the $400 petition fee) is required.

The petition is accompanied by an application data sheet, setting forth the reference to the prior-filed provisional application. While a reference to the prior-filed provisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the declaration for patent filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(6) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to

accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(5)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(6).[1] In the present case, the Office noted the claim for priority to the prior-filed provisional application in the declaration filed with the application. As acknowledged by applicants, the claim was both present on the first Official filing receipt and the application as published on May 15, 2003 included the claim for priority to the provisional application.

In view of the above, no surcharge is necessary and none has been charged.

Where the Office has picked up the claim and no petition under 37 CFR 1.78(a)(3) or (a)(6) is necessary, applicant must still submit the benefit claim in the manner specified in 37 CFR 1.78(a)(2)(i) and (a)(2)(iii) or 37 CFR 1.78(a)(5)(i) and (a)(5)(iii) (i.e., by an amendment in the first sentence(s) of the specification or in an ADS) to have a proper claim under 35 U.S.C. 120 or 119(e) and 37 CFR 1.78 to the benefit of a prior application.

In this instance, the application became abandoned prior to the claim being perfected. No amendment or ADS was filed prior to the application becoming abandoned. In this situation, a petition under 37 CFR 1.182 is required to amend this abandoned application to add the reference to the provisional application.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JAN 04 2012

OFFICE OF PETITIONS

In re Application of	:	
Beltzer et al.	:	
Application No. 09/932,613	:	
Filed: August 17, 2001	:	DECISION ON PETITION
Atty Docket No. DYXHGS-025.1 US	:	UNDER 37 CFR 1.182
	:	

This is a decision on the PETITION UNDER 37 C.F.R. §1.182 TO PERFECT PRIORITY CLAIM, filed November 10, 2011. Applicants request that the above-identified abandoned application be amended to include the claim under 35 U.S.C. §119(e) for benefit of priority to prior-filed provisional application No. 60/226,700.

The petition is **GRANTED**.

By decision mailed March 29, 2011, a prior petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) was dismissed as moot. Despite the absence of the claim in the first sentence of the specification or in an application data sheet, the Office noted the claim made in the declaration for patent filed with the application.

The above-noted abandoned application failed to make a specific reference to the prior-filed application; namely, 60/226,700 filed August 18, 2000, prior to abandonment. Petitioner now requests that the abandoned application be amended by inserting a reference to the earlier-filed application. The petition is accompanied by an application data sheet including the reference to the prior-filed application.

35 U.S.C. § 119(e) permits entry of a subsequent amendment (or supplemental application data sheet) to an abandoned application

in applications filed after November 29, 2000 to include the benefit of an earlier filing date for purposes other than prosecution, where the claim as here was picked up by the Office. *See* Sampson v. Commissioner of Patents and Trademarks, 195 USPQ 136 (DC DC 1976).

In view thereof, the request for entry of an amendment to insert a reference to the above-noted, earlier-filed application is granted.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3219.

This application is being forwarded to Technology Center Art Unit 1645 for entry of the application data sheet filed November 10, 2011.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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MICHAEL G. WALTON
PO BOX 722
BELLINGHAM WA 98227

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Patent No. 6,652,178 :
Issue Date: November 25, 2003 :
Application No. 09/933,081 :
Filed: August 20, 2001 :
For: ORGANIZING AND STORAGE SYSTEM :
FOR CARDS :

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed November 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 November 26, 2011 for failure to pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:
MICHAEL G. WALTON
4061 WESTWOOD DR.
ANCHORAGE AK 99517

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Vern Maine & Associates
547 AMHERST STREET, 3RD FLOOR
NASHUA NH 03063-4000

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Patent No. 6,581,415 :
Issued: 06/24/2003 :
Application No. 09/933,342 : NOTICE
Filed: 08/20/2001 :
Attorney Docket No. GT06-US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 14, 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) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

MAILED
DEC 13 2011
OFFICE OF PETITIONS

In re Application of :
Smit et al. : DECISION ON PETITIONS
Application No. 09/933,493 :
Filed: 08/20/2001 :
Attorney Docket No. MOBJ-01000US0 :

This is a decision on the petition under 37 CFR 1.182, filed December 8, 2011, to change the order of the names of the inventors. This is also a decision on the petition under 37 CFR 1.182, filed December 8, 2011, for expedited consideration of the petition.

The petitions are **GRANTED**.

The Office of Petitions has changed the order of the names of the inventors in the USPTO computer records and printed a new bibliographic data sheet, which will be scanned into the Image File Wrapper. A corrected filing receipt, reflecting the requested change, accompanies this decision.

Additionally, the Office acknowledges applicants' loss of small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The Office finance records indicate that applicants paid a $400.00 petition fee. The Office notes that an additional $400.00 fee is necessary for the filing of the second petition under 37 CFR 1.182. Therefore, the Office will charge the deposit account $400.00 as authorized.

Telephone 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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/933,493	08/20/2001	2457	3343	MOBJ-01000US0	27	7

CONFIRMATION NO. 6164

CORRECTED FILING RECEIPT

23910
FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO, CA 94108

OC000000051400687

Date Mailed: 12/13/2011

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)

Mark H. Smit, Maarssen, NETHERLANDS;
Stefan M. van den Oord, Weesp, NETHERLANDS;

Power of Attorney: The patent practitioners associated with Customer Number 23910

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: 09/21/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/933,493**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEM AND METHOD FOR ASYNCHRONOUS CLIENT SERVER SESSION COMMUNICATION

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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The United States represents the largest, most dynamic marketplace in the world and is an unparalleled location for business investment, innovation and commercialization of new technologies. The USA offers tremendous resources and advantages for those who invest and manufacture goods here. Through SelectUSA, our nation works to encourage, facilitate, and accelerate business investment. To learn more about why the USA is the best country in the world to develop technology, manufacture products, and grow your business, visit SelectUSA.gov.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120304

DATE : March 04, 2012

TO SPE OF : ART UNIT 2457

SUBJECT : Request for Certificate of Correction on Patent No.: 09/933,493

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:

/ARIO ETIENNE/
Supervisory Patent Examiner, Art Unit 2457

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SEP 21 2010

OFFICE OF PETITIONS

Law Offices of Ira D. Blecker, P.C.
206 Kingwood Park
Poughkeepsle NY 12601

In re Application of :
Bisdikian, et al. :
Application No. 09/933,625 : ON PETITION
Filed: August 21, 2001 :
Attorney Docket No. YOR920010520US1 :

This is a decision on the petition, filed August 6, 2010, under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration under 37 CFR 1.131.

The petition is granted to the extent infra.

Petitioners assert that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only inventors Bisdikian and Naghshineh have agreed to execute the attached declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to June 14, 2001.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all the named inventors of the claimed subject matter in question.[1] Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require William F. Jerome to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See, In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

This application is being referred to Technology Center AU 2444 for further examination on the merits.

Inquiries regarding this communication may be directed to the undersigned at (571) 272-3205. Inquiries concerning the examination or status of the application should be directed to the Technology Center.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] If a petition under 37 CFR 1.47 was granted or the application was accepted under 37 CFR 1.42 or 1.43, the affidavit or declaration may be signed by the 37 CFR 1.47 applicant or the legal representative, where appropriate. See, MPEP 715.04(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

K&L GATES LLP
210 SIXTH AVENUE
PITTSBURGH PA 15222-2613

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Morris et al.	:	DECISION ON PETITION
Application No. 09/933,709	:	TO WITHDRAW
Filed: August 22, 2001	:	FROM RECORD
Attorney Docket No. 1533.0520001	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 3, 2010.

The request is **APPROVED**.

The request was signed by Daniel R. Miller on behalf of himself, as he has accepted an offer of employment from the USPTO. Daniel R. Miller has been withdrawn as attorney of record. All other current attorneys/agents of record will remain as such.

All future correspondence will be continued to be directed to the address indicated above.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,430,935	2002-08-13	09/934,501	2001-08-22	13489-171 (ID 0810.0)

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Marc T. Filigenzi/	Date (YYYY-MM-DD)	2010-12-21
Name	Marc T. Filigenzi	Registration Number	46700

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6430935
Issue Date: August 13,2002
Application No. 09934501
Filed: August 22,2001
Attorney Docket No. 6321-199

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

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 7.5 year 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,429,028	2002-08-06	09934647	2001-08-23	18355.00

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		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/DOLPH H. TORRENCE/	Date (YYYY-MM-DD)	2010-10-28
Name	DOLPH H. TORRENCE	Registration Number	34501

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6429028
Issue Date: August 6,2002
Application No. 09934647
Filed: August 23,2001
Attorney Docket No. 18355.00

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

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

CERTIFICATE

Patent No. 7,006,132
Patented: February 28, 2006

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

Francisco Pereira, Darius Modarress, Mory Gharib, Dana Dabiri, David Jeon, and Emilio Castano Graff

David Ometz
Supervisory Patent Examiner
Art Unit 2622

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: September 19, 2011
TO: Certificates of Correction Branch
FROM: David Ometz
SPE, Art Unit 2622
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,006,132 as specified on the attached Certificate.

9/20/2011

David Ometz, SPE
Art Unit 2622

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOE ZHENG
SILICON VALLEY PATENT AGENCY
7394 WILDFLOWER WAY
CUPERTINO, CA 95014

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Application of :
Qing Kent Pu et al. :
Application No. 09/935,463 : ON PETITION
Filed: August 22, 2001 :
Attorney Docket No. **Kent-002** :

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 31, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Final Office Action mailed May 21, 2003 which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 8, 2004.

Petitioner has submitted a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

Additionally, however, 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

---

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

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

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

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

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

documentation must be submitted. A courtesy copy of this decision is being mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

This matter is being referred to Technology Center 3661 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON P.C. (AU)
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
SEP 08 2011
OFFICE OF PETITIONS

In re Patent Number: 7,264,876 :
Issue Date: 09/04/2007 :
Application Number: 09/935,995 : NOTICE
Filing or 371(c) Date: 08/23/2001 :
Attorney Docket Number: 21753-014001 :

This is a notice regarding your request for acceptance of a fee deficiency submission, which is treated under 37 CFR 1.28, filed on July 18, 2011.

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

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

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

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

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

D Wood
Douglas Wood
Attorney
Office of Petitions

Cc: MATHESON KEYS GARSSON & KORDZIK PLLC
7004 BEE CAVE ROAD
BLDG. 1, SUITE 110
AUSTIN TX 78746

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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HARRIET M. STRIMPEL, D. PHIL
NEW ENGLAND BIOLABS, INC.
240 COUNTY ROAD
IPSWICH MA 0198-2723

MAILED
DEC 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,271,256	:	
Issue Date: July 18, 2007	:	
Application No. 09/937,070	:	NOTICE
Filed: January 29, 2002	:	
Attorney Docket No. NEB-177-PUS	:	

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 Diane Goodwyn at (571) 272-6735.

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

KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS, IN 46204-2079

MAILED
OCT 18 2010
OFFICE OF PETITIONS

In re Patent No. 6,528,465	:	
Issue Date: March 4, 2003	:	
Application No. 09/937,513	:	NOTICE
Filed: September 25, 2001	:	
Attorney Docket No. 16696-7	:	

This is a notice regarding your request for acceptance of a fee deficiency submission filed on September 28, 2010, 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 **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it is not signed by a proper party. Petitioner should note CFR 1.33(b), which states:

> 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.

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.

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

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: DAVID COOPER
DENNEMEYER & CO LTD
REGENT HOUSE HEATON LANE
STOCKPORT CHESHIRE
ENGLAND SK4 1BB

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7113502	2006-09-26	09938445	2001-08-23	P-71954-US3

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under 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	/OREN RECHES/	Date (YYYY-MM-DD)	2010-11-30
Name	OREN RECHES	Registration Number	53506

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7113502
Issue Date: September 26,2006
Application No. 09938445
Filed: August 23,2001
Attorney Docket No. P-71954-US3

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

This is a decision on the electronic petition, filed November 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,999,961	2006-02-14	09/938,971	2001-08-24	AEDXC.0112

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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. Carstens/	Date (YYYY-MM-DD)	2010-11-01
Name	David W. Carstens	Registration Number	34134

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6999961
Issue Date: February 14,2006
Application No. 09938971
Filed: August 24,2001
Attorney Docket No. AEDXC.0112

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

This is a decision on the electronic petition, filed November 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
One Commerce Square
Suite 2200
2005 Market Street
Philadelphia PA 19103

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	Paper No. 4
Hsin-Tsai WU	:	
Application No. 09/939,882	:	NOTICE
Patent No. 6,543,073	:	
Filed: August 27, 2001	:	
Attorney Docket No. **6438-221US (PE-20709-**		

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: **CHRIS CHEN**
IPRM DIVISION
SOHARE INFORMATION CO., LTD.
3RD FLOOR, NO. 52, SECTION 2, CHANG-AN EAST ROAD
TAIPEI, TAIWAN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.
One Commerce Square
Suite 2200
2005 Market Street
Philadelphia PA 19103

MAILED

OCT 28 2010

OFFICE OF PETITIONS

In re Application of	:	Paper No. 6
Hsin-Tsai WU	:	
Application No. 09/939,882	:	NOTICE
Patent No. 6,543,073	:	
Filed: August 27, 2001	:	
Attorney Docket No. **6438-221US (PE-20709-AM)**		

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. Chris Chen does not have authority and has not properly signed the request. Hsin-Tsai Wu only signed the cover sheet of the petition. Also, it is not clear from the file record if Chris Chen is authorized to act on behalf of the assignee. Petitioner should note that an assignee must comply with the requirements of 37 CFR 3.73(b). See MPEP § 324. 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: **CHRIS CHEN**
IPRM DIVISION
SOHARE INFORMATION CO., LTD.
3RD FLOOR, NO. 52, SECTION 2, CHANG-AN EAST ROAD
TAIPEI, TAIWAN

cc: **HSIN-HSAI WU**
1F., NO. 19, ALLEY 3, LANE 106, SEC. 3
MIN-CHUAN E. RD.
TAIPEI CITY, TAIWAN

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,466,145	2002-10-15	09/940,326	2001-08-27	3944P011C

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/George W Hoover/	Date (YYYY-MM-DD)	2010-11-22
Name	George W Hoover	Registration Number	32992

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6466145
Issue Date: October 15,2002
Application No. 09940326
Filed: August 27,2001
Attorney Docket No. 3944P011C

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

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 7.5 year 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

Stephen G Matzuk
PO Box 767
Boston MA 02102

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,571,852 :
Issue Date: June 3, 2003 :
Application No. 09/940,559 : ON PETITION
Filed: August 28, 2001 :
Attorney Docket No. KENTEK-002XX :

This is a decision on the petition under 37 CFR 1.378(c), filed November 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 June 4, 2011, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Joanne M. Martin
40 North Spring Street
Concord, NH 03301-3902

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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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of	:	
David A. BRAUN	:	
Application No. 09/940,616	:	DECISION ON PETITION TO
Filed: August 29, 2001	:	WITHDRAW FROM RECORD
Attorney Docket No. **10017258-1**	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 1, 2011.

The request is **NOT APPROVED**.

The request to withdraw as attorney/agent of record and change of correspondence address is hereby not accepted. Petitioner has not complied with current USPTO requirements, set forth in 37 CFR 10.40 concerning Request for Withdrawal as Attorney and Change of Correspondence Address. Specifically, pursuant to 37 CFR 10.40, the Office will require the practitioner(s) to certify that he, she or they have:

> **(1) given reasonable notice to the client, prior to the expiration of the reply period, that the practitioner(s) intends to withdraw from employment;**
>
> **(2) delivered to the client or duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and**
>
> **(3) notified the client of any replies that may be due and the time frame within which the client must respond.**

Petitioner has not complied with items 1-3 of the above certifications.

Further, the Office will only accept correspondence address changes 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, the most current address information provided for the first named inventor. 37 CFR 3.71 (c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73 (b) that is signed by a party who is authorized to act on behalf of the assignee.

The Office will also no longer change the correspondence address to that of a new practitioner unless the Request is accompanied by a power of attorney to a new practitioner (e.g., Form PTO/SB/82). All future communications from the Office will be directed to the above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address has been submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Inquires concerning either the examination or status of the application should be directed to the Technology Center at 571-272-2600.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINSTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

MAILED

OCT 17 2011

OFFICE OF PETITIONS

In re Application of	:	
BRAUN	:	
Application No. 09/940,616	:	DECISION ON PETITION
Filed: August 29, 2001	:	TO WITHDRAW
Attorney Docket No. 10017258-1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 29, 2011.

The request is **NOT APPROVED**.

A review of the file record indicates that John W. Ryan does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN W. RYAN
THOMPSON HINE LLP
1920 N. STREET, NW
WASHINGTON DC 20036

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,531,776	2003-03-11	09/940,852	2001-08-29	LKSP0153USA

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-06
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.**

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6531776
Issue Date: March 11,2003
Application No. 09940852
Filed: August 29,2001
Attorney Docket No. SUND 225

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

This is a decision on the electronic petition, filed April 6,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 6,2012 . 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,674,368	2004-01-06	09/940,905	2001-08-27	4246-1

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

Under 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	/Michael Pharris/	Date (YYYY-MM-DD)	2012-02-08
Name	Michael Pharris, Asst Controller B.I. INCORPORATED		
Enter Reel and Frame Number		Remove	
Reel Number	022473	Frame Number	0874
Enter Reel and Frame Number		Remove	
Reel Number	012132	Frame Number	0754
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6674368
Issue Date: January 6,2004
Application No. 09940905
Filed: August 27,2001
Attorney Docket No. 4246-1

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

This is a decision on the electronic petition, filed February 8,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year 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 8,2012 . 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

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

In re Patent No. 7103378
Issue Date: September 5,2006
Application No. 09941387
Filed: August 28,2001
Attorney Docket No. MM4463

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

This is a decision on the electronic petition, filed March 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 23,2012 .
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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7103378	2006-09-05	09941387	2001-08-28	

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under 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	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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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APR 04 2012
OFFICE OF PETITIONS

MIKE OAKES
P.O. BOX 218
WINTHROP WA 98862

In re Patent No 6,604,946	:	
Issue Date: August 12, 2003	:	
Application No. 09/941,954	:	ON PETITION
Filed: August 29, 2001	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 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 August 12, 2011, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

Telephone inquiries concerning this decision should be directed to 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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P.O. Box 1450
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Arnold & Porter LLP (24126)
Attn: SV Docketing Dept.
1801 Page Mill Road
Suite 110
Palo Alto CA 94304

MAILED
JAN 13 2012
PCT LEGAL ADMINISTRATION

In re Application of
ASHKENAZI et al.
Application No.: 09/941,992
Filed: August 28, 2001
Attorney Docket No.: GNE-2730-001
For: SECRETED AND TRANSMEMBRANE POLYPEPTIDES AND NUCLEIC ACIDS ENCODING THE SAME

DECISION ON PETITION

This is a decision on the petition, filed February 14, 2011 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is DISMISSED.

The present nonprovisional application was filed after November 29, 2000. In order to add or correct benefit claims in the application, applicant must submit a petition under 37 CFR 1.78.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Anthony Smith
Attorney-Advisor
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,424	08/30/2001	Avi Kliger	TIA-001	7853

72822 7590 11/16/2010
Weiss & Arons, LLP
1540 Route 202, Suite 8
Pomona, NY 10970

EXAMINER
DECKER, CASSANDRA L

ART UNIT	PAPER NUMBER
2466	

MAIL DATE	DELIVERY MODE
11/16/2010	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

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte AVI KLIGER *et al*

Appeal 2010-006510
Application 09/943,424
Technology Center 2400

DECISION ON PETITION

This is a decision on the "Petition to the Board of Patent Appeals and Interferences for Oral Hearing Under 37 C.F.R. § 47.47(b)," filed November 1, 2010 ("Petition"). The Petition seeks an oral hearing in this appeal.

FINDINGS

1. On November 6, 2009, Appellants filed an Appeal Brief that included the following statement:

> Pursuant to 37 C.F.R. § 1.17(c) applicants/appellants electronically authorize herewith a payment in the amount of $1,620.00 including $540.00 for the filing of a brief in support of an appeal and $1,080 in payment of the fee for filing a request for Oral Hearing.

These fees were duly charged to the deposit account of Appellants' attorney.

2. Appellants did not file a separate request for oral hearing, as required by 37 C.F.R. 41.47(b).

RELEVANT AUTHORITY

37 C.F.R. § 41.47(b) provides:

If appellant desires an oral hearing, appellant must file, as a separate paper captioned "REQUEST FOR ORAL HEARING," a written request for such hearing accompanied by the fee set forth in § 41.20(b)(3) within two months from the date of the examiner's answer or supplemental examiner's answer.

37 C.F.R. § 1.183 provides:

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

DISCUSSION

Appellants' Petition is considered a petition under Rule 1.183 for waiver of the separate paper requirement of Rule 41.47(b). Although Appellants have paid the fee for an oral hearing, they did not file a separate request for such a hearing as required by Rule 41.47(b). Further, Appellants have not submitted any information or evidence of an extraordinary situation for which justice requires waiver of the Rule. In this circumstance, waiver of Rule 41.47(b) is deemed inappropriate.

It also is noted that Appellants did not pay the fee for a petition under Rule 1.183.

DECISION

In view of the foregoing, the Petition is DENIED. Appellants may seek a refund of the fee paid for an oral hearing.

James T. Moore
Acting Chief Administrative Patent Judge

Joel Weiss
Weiss & Arons, LLP
1540 Route 202, Suite 8
Pomona, NY 10970

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,938,037	2005-08-30	09/944,055	2001-08-31	17209-456

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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. Squires/	Date (YYYY-MM-DD)	2011-08-19
Name	John A. Squires	Registration Number	37451

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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
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In re Patent No. 6938037
Issue Date: August 30,2005
Application No. 09944055
Filed: August 31,2001
Attorney Docket No. G08.004

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

This is a decision on the electronic petition, filed August 19,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6952678
Issue Date: October 4,2005
Application No. 09944324
Filed: August 30,2001
Attorney Docket No. 11049.02

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

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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,952,678	2005-10-04	09/944,324	2001-08-30	8924P003

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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. Mallie/	Date (YYYY-MM-DD)	2011-05-31
Name	Michael J. Mallie	Registration Number	36591

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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MAILED
APR 11 2011
OFFICE OF PETITIONS

JURGEN VOLLRATH
588 SUTTER STREET # 531`
SAN FRANCISCO CA 94102

In re Application of	:	
Vladislav VASHCHENKO	:	
Application No. 09/944,426	:	DECISION ON PETITION
Filed: August 30, 2001	:	
Attorney Docket No. 75292/13356	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before January 06, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed October 06, 2010. Accordingly, the date of abandonment of this application is January 07, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This application is being referred to Publishing Division for processing into a patent.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF JAMES E. WALTON, PLLC
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON, TX 76028

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Application of
Carl Brock Brandenberg, et al.
Application No. 09/944,482
Filed: August 31, 2001
Attorney Docket No.: 0746MH-40404A

ON PETITION

This is a decision in response to the renewed petition, filed September 29, 2010, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

A review of the record discloses that this application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action mailed September 21, 2006. A Notice of Abandonment was mailed on April 2, 2007. On June 7, 2010, a petition to revive under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed July 28, 2010. In response, on September 29, 2010, the present petition was filed providing an explanation for the delay.

This application has been abandoned for an extended period of time. The U.S. Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." *See* Changes to Patent Practice and Procedure, 62 Fed. Reg., at 53160 and 53178; 1203 Off. Gaz. Pat. Office, at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the U.S. Patent and Trademark Office).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2179 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,416,808	2002-07-09	09/944,744	2001-08-31	52740-8002.US00

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

Under 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	/Jacqueline F. Mahoney/	Date (YYYY-MM-DD)	2010-12-29
Name	Jacqueline F. Mahoney	Registration Number	48390

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Patent No. 6416808
Issue Date: July 9,2002
Application No. 09944744
Filed: August 31,2001
Attorney Docket No. 52740-8002.US00

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

This is a decision on the electronic petition, filed December 29,2010 ,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 December 29,2010 . 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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Alexandria, VA 22313-1450
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SOPHIE LIANG
101 ANITA RD
BURLINGAME CA 94010

MAILED
MAR 21 2011
OFFICE OF PETITIONS

In re Patent No. 6,561,084
Issue Date: May 13, 2003 :
Application No. 09/944,976 : DECISION ON PETITION
Filed: August 31, 2001 :
Patentee: Richard Kenneth Lane :

This is a decision on the petition under 37 CFR 1.378(b), filed February 15, 2011, 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 May 13, 2003. Accordingly, the first maintenance fee could have been paid during the period from May 13, 2006 through November 13, 2006 without surcharge, or with a late payment surcharge during the period from November 14, 2006 through May 13, 2007. No maintenance fee having been received, the patent expired on May 14, 2007.

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 (1) above.

Petitioner has not submitted the required maintenance fee and surcharge, and as such, no consideration of the petition will be made on the merits. Petitioner referenced the submission of a credit card payment form to cover the required fees. However, the Office did not receive this form with the petition.

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

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

By FAX: (703) 872-9306
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
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SOPHIE LIANG
101 ANITA RD
BURLINGAME CA 94010

MAILED
MAY 13 2011
OFFICE OF PETITIONS

In re Patent No. 6,561,084
Issue Date: May 13, 2003 :
Application No. 09/944,976 : DECISION ON PETITION
Filed: August 31, 2001 :
Patentee: Richard Kenneth Lane :

This is a decision on the 1 page facsimile transmission filed March 30, 2011, which is being treated as a renewed petition under 37 CFR 1.378(b) 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 May 13, 2003. Accordingly, the first maintenance fee could have been paid during the period from May 13, 2006 through November 13, 2006 without surcharge, or with a late payment surcharge during the period from November 14, 2006 through May 13, 2007. No maintenance fee having been received, the patent expired on May 14, 2007.

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 (1) above.

Petitioner has not submitted the required maintenance fee and surcharge, and as such, no consideration of the petition will be made on the merits. Petitioner referenced the submission of a credit card payment form to cover the required fees. However, the Office did not receive this form with the petition.

Furthermore, it is noted that the letter was not signed by petitioner. Pursuant to 37 CFR 1.4(d), all correspondence filed with the Office must contain a handwritten or S-signature.

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: (703) 872-9306
Attn: Office of Petitions

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SOPHIE LIANG
101 ANITA RD
BURLINGAME CA 94010

MAILED
AUG 22 2011
OFFICE OF PETITIONS

In re Patent No. 6,561,084
Issue Date: May 13, 2003 :
Application No. 09/944,976 : DECISION ON PETITION
Filed: August 31, 2001 :
Patentee: Richard Kenneth Lane :

This is a decision on the petition to accept the unavoidably delayed payment of the maintenance fee under 37 CFR 1.378(b), filed August 4, 2011.

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

The above-identified patent issued May 13, 2003. Accordingly, the first maintenance fee could have been paid during the period from May 13, 2006 through November 13, 2006 without surcharge, or with a late payment surcharge of $65 during the period from November 14, 2006 through May 13, 2007. No maintenance fee having been received, the patent expired on May 14, 2007. Petitioner filed previous petitions under 37 CFR 1.378(b) on February 15, 2011 and March 30, 2011, which were dismissed in decisions mailed on March 21, 2011 and May 13, 2011, respectively, due to failure to submit the correct fees.

Evidence Presented on Petition:

Petitioner states that her husband, the patentee, passed away in 2006, and that she subsequently inherited his estate, including the instant patent. According to petitioner, she recently decided to market the patent, searched on the USPTO website, and learned that the patent was expired. Petitioner states that she was not aware of the requirement for maintenance fees and has never received and maintenance fee reminder notices.

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

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[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.

Lastly, petitioner has not shown that she or her husband had a system in place to track and monitor the payment of his maintenance fee. Absent such a showing, the petition can not be granted.

Conclusion:

Any request for reconsideration of this decision 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. 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.

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[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).

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. The $400 fee for reconsideration set forth in § 1.17(f) is not subject to refund. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the 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).

Receipt of the $490 for the first maintenance fee, $1240 for the second maintenance fee, and $700 for the unavoidable surcharge 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

COATS & BENNETT, P.L.L.C.
1400 CRESCENT GREEN, SUITE 300
CARY NC 27518

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of :
Melissa E. Derosier et al :
Application No. 09/945,096 : NOTICE
Filed: August 31, 2001 :
Attorney Docket No. 4846-001 :

This is in response to the communication filed June 14, 2011.

The communication states that, "On December 13, 2007, an issue fee was paid for this matter in the amount of $1,440. The issue fee was paid as a large entity as directed by your form. This application was filed as a small entity and has remained a small entity, therefore affording it a reduced fee.

On May 18, 2011, the Patent Office credited out deposit account in the amount of $1,440. It should only have credited the account $720 (the difference between the small entity and large entity fees). (sic) Therefore, please charge our deposit account 181167 in the amount of $720 for the actual proper issue fee payment."

A review of Office finance records show that a fee of $720.00 was charged to deposit account no. 18-1167 on June 17, 2011 (account date). However, the fee is applied under fee code 1461 which is the fee code for a fee deficiency payment.

In view of the above, the payment of $720.00 will be applied to the correct issue fee code of 2501 with the receipt date of December 13, 2007.

Inquiries concerning the above may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7146402	2006-12-05	09945130	2001-08-31	84390-830006

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Philip H. Albert/	Date (YYYY-MM-DD)	2012-02-14
Name	Philip H. Albert	Registration Number	35819

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7146402
Issue Date: December 5,2006
Application No. 09945130
Filed: August 31,2001
Attorney Docket No. 84390-003100US-830006

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

This is a decision on the electronic petition, filed February 14,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 14,2012 . 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

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

Corporate Patent Counsel
nLight Photonics
5408 NE 88th Street Building E
Vancouver WA 98665

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Patent No. 6,657,775 :
Issue date: December 2, 2003 :
Application No. 09/945,324 : ON PETITION
Filed: August 31, 2001 :
Attorney Docket No. NLIGHT-FULB003 :
For: SYSTEM AND METHOD FOR PROVIDING A CONTROLLED LINEWIDTH EXTERNAL CAVITY LASER

This is a decision on the petition under 37 CFR 1.378(b), filed February 10, 2012 (certificate of mailing date February 7, 2012) to accept an unavoidably delayed payment of the 7 ½ year 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. The petition for reconsideration should include an exhaustive attempt to provide the lacking item 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 December 2, 2003. The 7 ½ year maintenance fee could have been paid from December 2, 2010 through June 2, 2011, or with a surcharge during the period from June 3, 2011 through December 2, 2011. The 7 ½ year maintenance fee was not timely paid. Accordingly, the patent expired on December 3, 2011.

Statute and Regulation

37 CFR 1.378(a) provides that the Director may accept the payment of any maintenance fee due on a patent based on an expiration of the patent, if, upon petition, the delay in payment of the maintenance fee is shown to the satisfaction of the Director to have been unavoidable or unintentional. The appropriate surcharge set forth in § 1.20(i) must be paid as a condition of accepting payment of the maintenance fee. The surcharges set at 37 CFR 1.20(i) are established

pursuant to 35 U.S.C. 41(c) and, therefore, are not subject to small entity provisions of 35 U.S.C. 41(h). No separate petition fee is required for this petition. If the Director accepts payment of the maintenance fee upon petition, the patent shall be considered as not having expired but will be subject to the intervening rights and provisions of 35 U.S.C. 41(c)(2).

The patent statute at 35 U.S.C. 41(c)(1) provides as follows:

> "The Director may accept the payment of any maintenance fee required by subsection (b) of this section... 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 statute's promulgating rule, 37 CFR 1.378(b), provides that any petition to accept the delayed payment of a maintenance fee must include the following:

(1) the required maintenance fee set forth in 37 CFR 1.20(e) - (g);

(2) the surcharge set forth in 37 CFR 1.20(i)(1); and

(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The 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. Such as statement must be verified if made by a person not registered to practice before the Patent and Trademark Office. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

Opinion

Petitioner, NLIGHT Photonics Corporation (assignee), asserts that the delay in payment of the 7 ½ year maintenance fee was unavoidable because petitioner did not receive any Office correspondence related to the patent, including maintenance fee reminders. Control over the patent was transferred from an outside firm to nLIGHT internal patent counsel during June or July of 2011. Unfortunately, the firm changed the fee address for all patents that it formerly handled to an incorrect customer number – in other words, a customer number **not** associated with nLIGHT patent counsel. As a result, nLIGHT internal patent counsel did not receive any Office correspondence pertaining to this patent.

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

Petitions for the delayed payment of maintenance fees under 35 U.S.C. 41(c)(1) are treated under the same standard as petitions for revival of abandoned applications under 35 U.S.C. 133 because both statutory provisions use the same language, i.e., "unavoidable" delay. Ray v. Leyman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995) (quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 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). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable as follows:

> 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 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, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-168 (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. Massinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). The requirement in 35 U.S.C. 133 for a showing of unavoidable delay requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable (or expiration of the patent as it applies to 35 U.S.C. 41(c)(1)), but also a showing of unavoidable delay from the time an applicant becomes aware of the abandonment of the application until the filing of a petition to revive (or a petition under 37 CFR 1.378(b) to reinstate the patent under 35 U.S.C. 41(c)(1)). See In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990). 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, 316-317, 5 USPQ2d 1130, 1131-1132 (N.D. Ind. 1987).

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. Consequently, a reasonably prudent person in the exercise of due care and diligence will take steps to ensure the timely payment of maintenance fees. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. Thus, it follows that an adequate showing of unavoidable delay in payment of a maintenance fee, 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 the patent. Id. 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.

In view of the requirement to enumerate the steps taken to ensure timely payment of the 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. *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). Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office's 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. Rydeen v. Quigg, 748 F. supp. at 900.

The record fails to show that petitioner took adequate steps to ensure timely payment of the maintenance fee. In re Patent No. 4,461,759, 16 USPQ2d 1883, 1884 (Comm'r Pat. 1990).

Petitioner must demonstrate, via a documented showing, that despite reasonable care by petitioner to implement reasonable steps to ensure the timely payment of the maintenance fee, the maintenance fee was nevertheless, unavoidably not paid.

It is incumbent upon petitioner to demonstrate, ***via a documented showing***, that this patent was docketed for the second maintenance fee payment in a reliable tracking system. The former counsel transferred control over this patent to petitioner prior to the due date for the maintenance fee. It appears that no one was monitoring the due date for the second maintenance fee payment.

Petitioner is advised that delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay. In Re Kim, 12 U.S.P.Q.2d 1595 (Comm'r Pat. 1988). 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. 1.378(b). See Ray, at 610, 34 U.S.P.Q.2d at 1789.

The record fails to disclose that petitioner took reasonable steps to ensure timely payment of the maintenance fee. The current record indicates that no steps were taken by petitioner to ensure timely payment of the 7 ½ year maintenance fee. It appears that petitioner's payment of the maintenance fee hinged on receiving an Office reminder.

In short, petitioner has not demonstrated, via a documented showing, that there was a reliable tracking system in place to monitor the due dates of maintenance fees and that a responsible party had docketed this patent in that system. Evidence should be submitted which demonstrates that despite reasonable care by petitioner to implement reasonable steps to ensure the timely payment of the maintenance fees, the maintenance fee was nevertheless, unavoidably not paid.

The PATENT-POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS, filed February 10, 2012 has been entered and made of record.

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

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

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

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

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

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)

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/945,329	08/31/2001	William M. Anthony	X2YA0028U-US-C1	4186

92864 7590 03/26/2012
Kenneth C. Spafford
708 Smithson Avenue
Erie, PA 16511

EXAMINER
JACKSON, STEPHEN W

ART UNIT	PAPER NUMBER
2836	

NOTIFICATION DATE	DELIVERY MODE
03/26/2012	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

kspafford@spaffordlaw.com
spaffordlaw@gmail.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 26 2012

In re Patent No. 6,650,525 B2 Issue Date: November 18, 2003 Appl No.: 09/945,329 Filed: August 31, 2001 For: COMPONENT CARRIER	**DECISION GRANTING PETITION** *37 CFR 1.324*

This is a decision on the petition filed February 22, 2012 to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

/Jared Fureman/
Jared Fureman
Supervisory Patent Examiner
Art Unit 2836
Technology Center 2800

Kenneth C. Spafford
708 Smithson Avenue
Erie, PA 16511

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6530195
Issue Date: March 11,2003
Application No. 09945446
Filed: August 31,2001
Attorney Docket No. SUMMERFIELD

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

This is a decision on the electronic petition, filed May 5,2011 ,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 May 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6530195	2003-03-11	09945446	2001-08-31	Summerfield

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

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

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

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

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

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

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Duncan Palmatier/	Date (YYYY-MM-DD)	2011-05-05
Name	Duncan Palmatier	Registration Number	40759

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

Privacy Act Statement

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

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

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

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,589,466	2003-07-08	09/945,820	2001-09-05	43118-CIP1-DIV1-DIV2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Kameron D. Kelly/	Date (YYYY-MM-DD)	2011-09-09
Name	Kameron D. Kelly	Registration Number	44181

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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
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Alexandria, VA 22313-1450
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In re Patent No. 6589466
Issue Date: July 8,2003
Application No. 09945820
Filed: September 5,2001
Attorney Docket No. 66055-028-7

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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LAWRENCE LIVERMORE NATIONAL SECURITY, LLC
LAWRENCE LIVERMORE NATIONAL LABORATORY
PO BOX 808, L-703
LIVERMORE CA 94551-0808

MAILED
FEB 09 2011
OFFICE OF PETITIONS

In re Application of	:	Paper No. 12
Babak Sadigh et al.	:	
Application No. 09/945,878	:	NOTICE
Patent No. 6,627,522	:	
Filed: September 04, 2001	:	
Attorney Docket No. **IL-10925**		

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Accenture Chicago 28164
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,457,762 :
Wetzer et al. : DECISION UPON REMAND AND
Issue Date: November 25, 2008 : RECONSIDERATION OF
Application No. 09/946,032 : PATENT TERM ADJUSTMENT
Filed: September 04, 2001 : AND NOTICE OF INTENT
Attorney Docket No. 1022/98 : TO ISSUE CERTIFICATE OF
Title: Optimization of : CORRECTION
Management of :
Maintenance,Repair,and Overhaul
of Equipment in a Specified
Time Window

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

After telephonic voicemail exchange for Accenture with Joel Benson, counsel for Accenture, an agreement as to the correct amount of patent term adjustment has been reached.

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand seven hundred and thirty nine (1739)days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand seven hundred and thirty nine (1739)days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,457,762

DATED : **November 25, 2008** **DRAFT**

INVENTOR(S) : Wetzer et al..

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1070 days

Delete the phrase "by 491 days" and insert – by 1739 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Accenture Chicago 28164
Brinks Hofer Gilson & Leone
PO Box 10395
Chicago IL 60610

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,440,906	:
Wetzer et al.	: DECISION UPON REMAND AND
Issue Date: October 21, 2008	: RECONSIDERATION OF
Application No. 09/946,095	: PATENT TERM ADJUSTMENT
Filed: September 4, 2001	: AND NOTICE OF INTENT
Attorney Docket No. 10022/95	: TO ISSUE CERTIFICATE OF
Title: Identification,	: CORRECTION
Categorization, and Integration	:
of Unplanned Maintenance,	
Repair, and Overhaul Work on	
Mechanical Equipment	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by thirteen hundred and thirty-one (1331) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by thirteen hundred and thirty-one (1331) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,440,906

DATED : October 21, 2008 **DRAFT**

INVENTOR(S) : Wetzer et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 745 days

Delete the phrase "by 745 days" and insert – by 1331 days--

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 09946095 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 09946095

Application Filing Date	09/04/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	10/21/2008	Non-Overlapping USPTO Delays:	1081
A Delays	1081	PTO Manual Adjustment	586
B Delays	0	Applicant Delay (APPL)	336
C Delays	0	Total PTA (days)	1331

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
113	05/03/2011		P028	Adjustment of PTA Calculation by PTO	586	0	
107	10/21/2008		PTAC	Patent Issue Date Used in PTA Calculation		0	
107.5	10/01/2008	09/04/2004	PTA36M	PTA 36 Months	0	0	
106	09/22/2008		D1935	Dispatch to FDC		0	
105	07/21/2008		PILS	Application Is Considered Ready for Issue		0	
104	07/18/2008		N084	Issue Fee Payment Verified		0	
103	07/18/2008		IFEE	Issue Fee Payment Received		0	
102	07/16/2008		MN271	Mail Response to 312 Amendment (PTO-271)		0	
101	07/16/2008		N271	Response to Amendment under Rule 312		0	
100	07/08/2008		A.NA	Amendment after Notice of Allowance (Rule 312)	9	102	
99	06/20/2008		FIDC	Finished Initial Data Capture		0	
98	06/12/2008		MN271	Mail Response to 312 Amendment (PTO-271)		0	
96	06/09/2008		N271	Response to Amendment under Rule 312		0	
95	06/05/2008		A.NA	Amendment after Notice of Allowance (Rule 312)	8	98	
97	06/02/2008		EIDC	Export to Initial Data Capture		0	
94	05/30/2008		MN/=.	Mail Notice of Allowance		0	
93	05/28/2008		N/=.	Notice of Allowance Data Verification Completed		0	
92	05/28/2008		IREV	Issue Revision Completed		0	
91	05/28/2008		DVER	Document Verification		0	
90	05/27/2008		CNTA	Allowability Notice		0	
86	05/22/2008		QURF	Workflow - Query Request - Finish		0	
83	05/19/2008		FWDX	Date Forwarded to Examiner		0	
81	05/19/2008		ABN9	Disposal for a RCE / CPA / R129		0	
89	05/15/2008		IDSC	Information Disclosure Statement considered		0	
85	05/15/2008		RCAP	Reference capture on IDS		0	
84	05/15/2008		M844	Information Disclosure Statement (IDS) Filed		0	
82	05/15/2008		RCEX	Request for Continued Examination (RCE)		0	
80	05/15/2008		TCPB	Printer Rush- No mailing		0	
79	05/15/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
78	05/15/2008		BRCE	Workflow - Request for RCE - Begin		0	
77	05/15/2008		MM327	Mail Miscellaneous Communication to Applicant		0	
76	05/14/2008		M327	Miscellaneous Communication to Applicant - No Action Count		0	
71	04/21/2008		QURI	Workflow - Query Request - Begin		0	
72	04/09/2008		PUBTC	Pubs Case Remand to TC		0	
70	04/07/2008		EIDC	Export to Initial Data Capture		0	
75	04/04/2008		IDSC	Information Disclosure Statement considered		0	
74	04/04/2008		RCAP	Reference capture on IDS		0	
73	04/04/2008		M844	Information Disclosure Statement (IDS) Filed		0	
69	04/04/2008		WIDS	Information Disclosure Statement (IDS) Filed		0	
68	04/02/2008		MEX.A	Mail Examiner's Amendment		0	
67	04/02/2008		MN/=.	Mail Notice of Allowance		0	
66	03/29/2008		N/=.	Notice of Allowance Data Verification Completed		0	
65	03/27/2008		EX.A	Examiner's Amendment Communication		0	
64	03/27/2008		DVER	Document Verification		0	
63	03/27/2008		CNTA	Allowability Notice		0	
60	01/28/2008		FWDX	Date Forwarded to Examiner		0	
59	12/27/2007		A...	Response after Non-Final Action		0	
57	09/27/2007		MCTNF	Mail Non-Final Rejection		0	
56	09/26/2007		CTNF	Non-Final Rejection		0	
55	07/16/2007		FWDX	Date Forwarded to Examiner		0	
53	07/10/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
54	07/05/2007	05/30/2007	SA..	Supplemental Response	36	48	
52	06/28/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
51	06/11/2007		FWDX	Date Forwarded to Examiner		0	
49	06/11/2007		FWDX	Date Forwarded to Examiner		0	

47	06/11/2007		ABN9	Disposal for a RCE / CPA / R129			0
50	05/30/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
48	05/30/2007	03/18/2007	RCEX	Request for Continued Examination (RCE)		73	37
46	05/30/2007		XT/G	Request for Extension of Time - Granted			0
44	05/30/2007		BRCE	Workflow - Request for RCE - Begin			0
43	03/30/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
42	03/22/2007		CTAV	Advisory Action (PTOL-303)			0
39	03/06/2007		FWDX	Date Forwarded to Examiner			0
41	02/23/2007		IDSC	Information Disclosure Statement considered			0
40.7	02/23/2007		M844	Information Disclosure Statement (IDS) Filed			0
40	02/23/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
38	02/23/2007		A.NE	Amendment after Final Rejection			0
37	12/18/2006	12/09/2006	MCTFR	Mail Final Rejection (PTOL - 326)	9		34
36	10/30/2006		CTFR	Final Rejection			0
35	08/18/2006		FWDX	Date Forwarded to Examiner			0
34	08/09/2006	04/17/2006	A...	Response after Non-Final Action		114	30
33	07/10/2006		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
31	04/21/2006		FWDX	Date Forwarded to Examiner			0
32	04/17/2006		LET.	Miscellaneous Incoming Letter			0
30.1	04/17/2006		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
30	04/17/2006	01/17/2006	A...	Response after Non-Final Action		90	20
29	04/07/2006		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
28	03/13/2006		IDSC	Information Disclosure Statement considered			0
24	03/13/2006		RCAP	Reference capture on IDS			0
23.7	03/13/2006		M844	Information Disclosure Statement (IDS) Filed			0
23	03/13/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
21	01/26/2006		FWDX	Date Forwarded to Examiner			0
27	01/17/2006		IDSC	Information Disclosure Statement considered			0
26	01/17/2006		RCAP	Reference capture on IDS			0
22.7	01/17/2006		M844	Information Disclosure Statement (IDS) Filed			0
22	01/17/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
20.1	01/17/2006		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
20	01/17/2006	01/11/2006	A...	Response after Non-Final Action		6	19
19	10/11/2005	11/04/2002	MCTNF	Mail Non-Final Rejection	1072		-1
18	10/03/2005		CTNF	Non-Final Rejection			0
15	07/06/2004		LET.	Miscellaneous Incoming Letter			0
14	04/22/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	04/22/2004		RCAP	Reference capture on IDS			0
17	01/27/2003		IDSC	Information Disclosure Statement considered			0
11.7	01/27/2003		M844	Information Disclosure Statement (IDS) Filed			0
11	01/27/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
25	09/13/2002		RESC	Rescind Nonpublication Request for Pre Grant Publication			0
16	09/09/2002		IDSC	Information Disclosure Statement considered			0
10.7	09/09/2002		M844	Information Disclosure Statement (IDS) Filed			0
10	09/09/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
9	04/23/2002		DOCK	Case Docketed to Examiner in GAU			0
8	03/07/2002		DOCK	Case Docketed to Examiner in GAU			0
7	01/25/2002		OIPE	Application Dispatched from OIPE			0
6	01/23/2002		COMP	Application Is Now Complete			0
12	01/09/2002		C602	Oath or Declaration Filed (Including Supplemental)			0
5	11/14/2001		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	11/13/2001		C.AD	Correspondence Address Change			0
2	09/12/2001		SCAN	IFW Scan & PACR Auto Security Review			0
1	09/04/2001		IEXX	Initial Exam Team nn			0

Export to: Excel

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NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA VA 22304

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Patent of Beckmann et al.	:	DECISION ON REQUEST
Patent No. 7,788,212	:	FOR
Issue Date: August 31, 2010	:	RECONSIDERATION OF
Application No. 09/946,157	:	PATENT TERM ADJUSTMENT
Filed: September 4, 2001	:	and
Atty Docket No. BIGT0010U-US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 20, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand three hundred thirty-four (2334) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two thousand three hundred thirty-four (2334) days is **GRANTED to the extent indicated herein.**

Patentees assert the total period of adjustment is 2334 days, which is the sum of 281 days of A delay and 150 days of B delay and 2052 days of C delay reduced by 149 days of Applicant delay.

As a preliminary matter, it is noted that the petition contains a repeated typographical error - that the application was filed on October 9, 2001. This error impacts several of patentees' calculations.

The Office concurs with patentees' assertion the period of A delay is 281 days and the period of Applicant delay is 149.

The Office does not concur with patentees' assertion the period of B delay is 150 days. The maximum B delay period is 2187 days and begins on September 5, 2004, which is one day after three

years after the filing of the application on September 4, 2001, and ends on August 31, 2010, when the patent issued.

As stated in 35 U.S.C. 154(b)(1)(B)(ii), B delay does not include "any time consumed by appellate review by the Board of Patent Appeals and Interferences." The period of B delay does not include the 2053, not 2052, day period beginning on August 19, 2004, the date the Notice of Appeal was filed, and ending on April 2, 2010, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner. It does not mater if the time occurs prior to the three year period. Excluding the 2053 days consumed by appellate review results in a period of B delay of 134 days (2187 - 2053).

Although the 2053 days consumed by appellate review is not part of the period of B delay, the 2053 days does constitute delay under 35 U.S.C. 154(b)(1)(C) ("C delay"). In other words, the successful appellate period of 2053 days is counted against the Office as a separate adjustment pursuant to 37 CFR 1.702(e) as C delay.

Patentees assert the total patent term adjustment is 2334 days. However, the patent term adjustment is two thousand three hundred nineteen (2319) days, which is the sum of 281 days of A delay and 134 days of B delay and 2053 days of C delay reduced by 149 days of Applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction.

The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand three hundred nineteen (2319)** days.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,788,212 B2

DATED : **August 31, 2010** **DRAFT**

INVENTOR(S) : Beckmann et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 2200 days

Delete the phrase "by 2200 days" and insert – by 2319 days--

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MINNEAPOLIS, MN 55440-1022

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SEP 20 2010

OFFICE OF PETITIONS

In re Application of
Ido Schoenberg, et al.
Application No.: 09/946,274
Filed: September 5, 2001
Attorney Docket No.: 20804-004004

ON PETITION

This is a decision on the petition, filed September 20, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 7, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 3686 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Danneels et al. :
Application No. 09/946,375 :
Filed: September 5, 2001 : DECISION ON PETITION
Attorney Docket No. 8242M : UNDER 37 C.F.R. § 1.137(B)
Title: FABRIC ADDITIVE ARTICLES :
AND PACKAGE THEREFOR :

This is a decision on the petition filed May 13, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed May 29, 2007, which set a shortened statutory period for reply of three months. An after-final amendment was received on November 29, 2007 along with a three-month extension of time so as to make timely the response, and an advisory action was mailed on December 7, 2007. No additional extensions of time under the provisions of 37 C.F.R § 1.136(a) were available, and no further responses were received. Accordingly, the above-identified application became abandoned on November 30, 2007. A notice of abandonment was mailed on January 2, 2008.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;

(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed a Request for Continued Examination (RCE) along with the required fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

The record (including the petition filed on May 13, 2010) does not necessitate a finding that the delay between midnight of November 29, 2007 (the date of abandonment), and May 13, 2010 (the date of the filing of grantable petition), was not unintentional. Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Allison Jane Danneels, Laure Waegemans, Julie Savchenko, Errol Hoffman Wahl, and David V. Upite (Reg. No. 47,147) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on May 13, 2010 - can be processed in due course.

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1 See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 C.F.R. § 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. § 1.137(b) to the Patent and Trademark Office).
2 See Rule 1.137(d).

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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RIVERBED TECHNOLOGY INC. - PVF
C/O PARK, VAUGHAN, FLEMING & DOWLER LLP
2820 FIFTH STREET
DAVIS CA 95618

MAILED

JUN. 13 2011

OFFICE OF PETITIONS

In re Patent No. 7,398,317	:	
Issued: July 8, 2008	:	
Application No. 09/946,787	:	ON PETITION
Filed: September 5, 2001	:	
Attorney Docket No. RIV-0750	:	

This is a decision on the petition under 37 CFR 1.182, filed February 24, 2011 and March 1, 2011, requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The $400.00 petition fee was collected with each of the above listed filings of the instant petition. Accordingly, the second petition fee, collected March 1, 2011, will be refunded to petitioner's credit card in due course.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at (703) 756-1555 or Kimberly Terrell at (703) 756-1568.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: Ollie Person, P/ODM, RSQ 9D30-A (FAX 571-270-9764)
Kimberly Terrell, P/ODM, RSQ 9D33 (FAX 571-270-9958)

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MAILED
SEP 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,398,317	:	
Issue Date: July 8, 2008	:	
Application No. 09/946,787	:	NOTICE
Filed: September 5, 2001	:	
Attorney Docket No. RIV-0750	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on August 1, 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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Gunnar G. Leinberg, Esq.
Nixon Peabody LLP
1100 Clinton Square
Rochester NY 14604

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of	:	
MANCHALA et al.	:	APPLICATION FOR PATENT
Application No. 09/946,923	:	TERM ADJUSTMENT
Filed: September 5, 2001	:	
Docket No. D/A 1049 (1508/3370)	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed May 5, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand six hundred ninety-seven (1697) days, not one thousand two hundred eighty (1280) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction partly on the basis that the Office will take in excess of three years to issue this patent.

The request for reconsideration of the patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PALM and PAIR screens to reflect that the corrected patent term adjustment determination at the time of the mailing of the notice of allowance is **one thousand fifty-six (1056) days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

A review of the record reveals that applicants should have been assessed a period of delay of 90 days, pursuant to 37 CFR 1.704(b), for the filing of a Request for Continued Examination (RCE) on March 15, 2007.

A final Office action was mailed on September 15, 2006. Applicants filed a response in the form of an RCE on March 15, 2007, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR 1.704(b). Thus, applicants failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should have been reduced by 90 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, December 16, 2006, ending on the date the reply was filed, March 15, 2007. See 37 CFR 1.704(b). Accordingly, a period of reduction of 90 days will be entered.

On May 29, 2007, the Office mailed a non-final Office action in response to, and within four months of, applicants' filing of a reply on March 15, 2007. Thus, there was no examination delay within the meaning of 37 CFR 1.702(a)(2). Accordingly, the period of adjustment of 134 days for Office delay in responding to the reply filed March 15, 2007, has been corrected to 0 days.

As to applicants' request for reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the

request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR screen

09/946,923	SYSTEM AND METHOD FOR PROVIDING SECURE VALUE-ADDED DOCUMENT NETWORK SERVICES	09-27-2010::11:28:45

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 09/946,923

Filing or 371(c) Date:	09-05-2001	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	1375
A Delays:	1375	PTO Manual Adjustments:	-224
B Delays:	0	Applicant Delays:	95
C Delays:	0	Total PTA Adjustments:	1056

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
87	09-27-2010	Adjustment of PTA Calculation by PTO		90	0
86	09-27-2010	Adjustment of PTA Calculation by PTO		134	0
79	02-05-2010	Mail Notice of Allowance			0
78	02-03-2010	Issue Revision Completed			0
77	02-03-2010	Document Verification			0
76	02-03-2010	Notice of Allowance Data Verification Completed			0
75	02-01-2010	Notice of Allowability			0
74	01-06-2010	Information Disclosure Statement considered			0
73	01-06-2010	Request for Continued Examination (RCE)			0
72	01-10-2010	Disposal for a RCE / CPA / R129			0
71	01-06-2010	Electronic Information Disclosure Statement			0
70	01-06-2010	Information Disclosure Statement (IDS) Filed			0
69	01-06-2010	Workflow - Request for RCE - Begin			0
68	11-12-2009	Finished Initial Data Capture			0
67	10-13-2009	Export to Initial Data Capture			0
66	10-06-2009	Mail Notice of Allowance			0
65	10-02-2009	Document Verification			0
64	10-02-2009	Issue Revision Completed			0

63	10-02-2009	Notice of Allowance Data Verification Completed			0
62	10-01-2009	Notice of Allowability			0
61	07-13-2009	Date Forwarded to Examiner			0
60	06-12-2009	Response after Non-Final Action			0
59	03-25-2009	Mail Non-Final Rejection			0
58	03-24-2009	Non-Final Rejection			0
57	01-23-2009	Date Forwarded to Examiner			0
56	01-21-2009	RCE- AF Processed			0
55	01-23-2009	Date Forwarded to Examiner			0
54	01-21-2009	Request for Continued Examination (RCE)		95	45
53	01-23-2009	Disposal for a RCE / CPA / R129			0
52	01-21-2009	Request for Extension of Time - Granted			0
51	01-21-2009	Workflow - Request for RCE - Begin			0
50	01-07-2009	Mail Advisory Action (PTOL - 303)			0
49	01-05-2009	Advisory Action (PTOL-303)			0
48	12-30-2008	Date Forwarded to Examiner			0
47	12-17-2008	Amendment after Final Rejection			0
46	12-17-2008	Request for Extension of Time - Granted			0
45	07-18-2008	Mail Final Rejection (PTOL - 326)	202		42
44	07-17-2008	Final Rejection			0
43	06-06-2008	Date Forwarded to Examiner			0
42	08-29-2007	Response after Non-Final Action			0
38	05-29-2007	Mail Non-Final Rejection	134		35
37	05-25-2007	Non-Final Rejection			0
36	03-24-2007	Date Forwarded to Examiner			0

35	09-15-2006	Request for Continued Examination (RCE)			0
34	03-24-2007	Disposal for a RCE / CPA / R129			0
33	03-15-2007	Workflow - Request for RCE - Begin			0
32	09-15-2006	Mail Final Rejection (PTOL - 326)			0
31	09-14-2006	Final Rejection			0
30	08-08-2006	Mail Examiner Interview Summary (PTOL - 413)			0
29	07-31-2006	Examiner Interview Summary Record (PTOL - 413)			0
28	07-07-2006	Mail Examiner Interview Summary (PTOL - 413)			0
27	06-25-2006	Examiner Interview Summary Record (PTOL - 413)			0
26	06-12-2006	Mail Advisory Action (PTOL - 303)			0
25	06-09-2006	Advisory Action (PTOL-303)			0
24	05-23-2006	Date Forwarded to Examiner			0
23	05-15-2006	Amendment after Final Rejection			0
22	03-21-2006	Case Docketed to Examiner in GAU			0
21	02-22-2006	Mail Final Rejection (PTOL - 326)			0
20	02-17-2006	Final Rejection			0
19	12-15-2005	Date Forwarded to Examiner			0
18	12-09-2005	Supplemental Response		0	16
17	12-15-2005	Date Forwarded to Examiner			0
16	12-09-2005	Response after Non-Final Action			0
15	09-05-2001	Information Disclosure Statement considered			0
14	09-09-2005	Mail Non-Final Rejection	1039		-1
13	09-06-2005	Non-Final Rejection			0
12	07-22-2005	IFW TSS Processing by Tech Center Complete			0
11	09-05-	Reference capture on IDS			0

	2001		
10	06-15-2005	Case Docketed to Examiner in GAU	0
9	01-05-2005	Case Docketed to Examiner in GAU	0
8	05-13-2002	Case Docketed to Examiner in GAU	0
7	02-26-2002	Case Docketed to Examiner in GAU	0
6	11-29-2001	Case Docketed to Examiner in GAU	0
5.7	09-05-2001	Information Disclosure Statement (IDS) Filed	0
5	09-05-2001	Information Disclosure Statement (IDS) Filed	0
4	10-15-2001	Application Dispatched from OIPE	0
3	10-09-2001	Correspondence Address Change	0
2	09-14-2001	IFW Scan & PACR Auto Security Review	0
1	09-05-2001	Initial Exam Team nn	0

Close Window

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SAN JOSE CA 95161

MAILED

JAN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Stough, et al.	:	
Application No. 09/947,010	:	DECISION
Filed/Deposited: 4 September, 2001	:	
Attorney Docket No. 00-1009	:	

This is a decision on the petition filed 9 August, 2010, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment," and/or "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioner does not appear to have addressed satisfactorily the fee, reply and statement/showing requirements under the rule. These deficiencies must be overcome.

BACKGROUND

The record reflects as follows:

Counsel failed to reply timely and properly to the final Office action mailed on 23 February, 2005, with reply due absent extension of time on or before 23 May, 2005.

On 11 March, 2005, Counsel filed an amendment after final, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance, and on 21 April, 2005, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 23 May, 2005.

The Office mailed the Notice of Abandonment on 13 September, 2005.

The power of attorney submitted on 28 January, 2010, was entered on 29 January, 2010.

On 9 August, 2010—nearly roughly sixty-three (63) months after abandonment and nearly five years after Notice thereof—Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), but without satisfying the fee requirement, with a request for continued examination (RCE), but again without satisfying the fee requirement, and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, and made the statement of unintentional delay. However, 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, and so did not satisfy the fee, reply and statement/showing requirements under the rule. (Petitioner should contact the Office of Finance as to issues regarding credit card authorization.)

Petitioner **must** overcome these deficiencies.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

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.[5]

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[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[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).

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the fee, reply and statement/showing requirements under the rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II) as to a petition pursuant to 37 C.F.R. §1.137.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) 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

[6] 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.

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GARRICK, HARRISON & MARKISON (VIXS)
PO BOX 160727
AUSTIN, TX 78716-0727

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OFFICE OF PETITIONS

In re Application of
Indra Laksono, et al.
Application No. 09/947,013
Filed: September 5, 2001
Attorney Docket No. VIXS021

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 22, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on April 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2425 for appropriate action by the Examiner in the normal course of business on the reply received October 14, 2010.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Accenture Chicago 28164
Brinks Hofer Gilson & Leone
PO Box 10395
Chicago IL 60610

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,502,744	:
Garrow et al.	: DECISION UPON REMAND AND
Issue Date: March 10, 2009	: RECONSIDERATION OF
Application No. 09/947,024	: PATENT TERM ADJUSTMENT
Filed: September 4, 2001	: AND NOTICE OF INTENT
Attorney Docket No. 10022/32	: TO ISSUE CERTIFICATE OF
Title: Performing Predictive	: CORRECTION
Maintenance Based Upon a	:
Predictive Maintenance Target	

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by twelve hundred and thirty-eight (1238) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by twelve hundred and thirty-one (1238) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,502,744

DATED : March 10, 2009 **DRAFT**

INVENTOR(S) : Garrow et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 926 days

Delete the phrase "by 926 days" and insert – by 1238 days--

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 09947024 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 09947024

Application Filing Date	09/04/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	03/10/2009	Non-Overlapping USPTO Delays:	1120
A Delays	1120	PTO Manual Adjustment	312
B Delays	0	Applicant Delay (APPL)	194
C Delays	0	Total PTA (days)	1238

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
135	05/03/2011		P028	Adjustment of PTA Calculation by PTO	312		0
129	03/10/2009		PTAC	Patent Issue Date Used in PTA Calculation			0
129.5	02/18/2009	09/04/2004	PTA36M	PTA 36 Months	0		0
128	02/09/2009		EFDC	Export to Final Data Capture			0
127	02/06/2009		FIDC	Finished Initial Data Capture			0
126	02/06/2009		D1935	Dispatch to FDC			0
125	01/21/2009		PILS	Application Is Considered Ready for Issue			0
124	01/21/2009		QURF	Workflow - Query Request - Finish			0
123	11/19/2008		N084	Issue Fee Payment Verified			0
122	11/19/2008		IFEE	Issue Fee Payment Received			0
121	11/18/2008		MN271	Mail Response to 312 Amendment (PTO-271)			0
120	11/18/2008		N271	Response to Amendment under Rule 312			0
119	10/30/2008		A.NA	Amendment after Notice of Allowance (Rule 312)		20	121
117	10/30/2008		A.NA	Amendment after Notice of Allowance (Rule 312)			121
116	09/19/2008		QURI	Workflow - Query Request - Begin			0
118	09/16/2008		PUBTC	Pubs Case Remand to TC			0
115	09/09/2008		EIDC	Export to Initial Data Capture			0
114	09/03/2008	07/11/2008	MN/=.	Mail Notice of Allowance	54		88
113	09/02/2008		IREV	Issue Revision Completed			0
112	09/02/2008		DVER	Document Verification			0
111	09/02/2008		N/=.	Notice of Allowance Data Verification Completed			0
110	07/24/2008		MEX.A	Mail Examiner's Amendment			0
108	07/24/2008		MM327	Mail Miscellaneous Communication to Applicant			0
107	07/23/2008		DOCK	Case Docketed to Examiner in GAU			0
106	07/16/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
105	07/15/2008		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
104	07/11/2008		DVER	Document Verification			0
103	07/11/2008		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
99	06/04/2008		EX.A	Examiner's Amendment Communication			0
98	06/04/2008		CNTA	Allowability Notice			0
102	05/06/2008	03/11/2008	M844	Information Disclosure Statement (IDS) Filed		56	88
93	05/06/2008		IDSC	Information Disclosure Statement considered			0
91	05/06/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
101	04/04/2008		RCAP	Reference capture on IDS			0
100	04/04/2008		M844	Information Disclosure Statement (IDS) Filed			0
92	04/04/2008		IDSC	Information Disclosure Statement considered			0
90	04/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
89	03/31/2008		FWDX	Date Forwarded to Examiner			0
88	03/11/2008		A...	Response after Non-Final Action			0
85	12/12/2007		MCTNF	Mail Non-Final Rejection			0
84	12/08/2007		CTNF	Non-Final Rejection			0
87	10/29/2007		RCAP	Reference capture on IDS			0
86	10/29/2007	09/18/2007	M844	Information Disclosure Statement (IDS) Filed		41	75
83	10/29/2007		IDSC	Information Disclosure Statement considered			0
81	10/29/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
78	09/28/2007		FWDX	Date Forwarded to Examiner			0
76	09/28/2007		FWDX	Date Forwarded to Examiner			0
74	09/28/2007		ABN9	Disposal for a RCE / CPA / R129			0
64	09/20/2007		BRCE	Workflow - Request for RCE - Begin			0
82	09/18/2007		IDSC	Information Disclosure Statement considered			0
80	09/18/2007		RCAP	Reference capture on IDS			0
79	09/18/2007		M844	Information Disclosure Statement (IDS) Filed			0
77	09/18/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
75	09/18/2007		RCEX	Request for Continued Examination (RCE)			0

73	09/18/2007		XT/G	Request for Extension of Time - Granted			0
65	09/18/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
63	07/24/2007		MAPCD	Mail Appeals conf. Request Defective			0
62	07/20/2007		APCD	Pre-Appeals Conference Decision - Request Defective			0
61	06/18/2007		AP.C	Request for Pre-Appeal Conference Filed			0
60	06/18/2007		N/AP	Notice of Appeal Filed			0
59	04/16/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
58	04/12/2007		CTFR	Final Rejection			0
56	03/20/2007		DOCK	Case Docketed to Examiner in GAU			0
55	03/20/2007		DOCK	Case Docketed to Examiner in GAU			0
53	02/13/2007		FWDX	Date Forwarded to Examiner			0
57	02/02/2007		IDSC	Information Disclosure Statement considered			0
54.7	02/02/2007	02/02/2007	M844	Information Disclosure Statement (IDS) Filed			52
54	02/02/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
52	02/02/2007		A...	Response after Non-Final Action			0
51	11/02/2006		MCTNF	Mail Non-Final Rejection			0
50	10/26/2006		CTNF	Non-Final Rejection			0
48	08/18/2006		FWDX	Date Forwarded to Examiner			0
46	08/18/2006		FWDX	Date Forwarded to Examiner			0
44	08/18/2006		ABN9	Disposal for a RCE / CPA / R129			0
47	08/14/2006		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
45	08/14/2006	06/20/2006	RCEX	Request for Continued Examination (RCE)		55	35
43	08/14/2006		XT/G	Request for Extension of Time - Granted			0
42	08/14/2006		BRCE	Workflow - Request for RCE - Begin			0
41	07/24/2006		MCTAV	Mail Advisory Action (PTOL - 303)			0
40	07/14/2006		CTAV	Advisory Action (PTOL-303)			0
39	06/28/2006		FWDX	Date Forwarded to Examiner			0
38	06/23/2006		A.NE	Amendment after Final Rejection			0
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37	03/27/2006		RCAP	Reference capture on IDS			0
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36	03/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
35	03/20/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
34	03/10/2006		CTFR	Final Rejection			0
33	01/27/2006		IDSC	Information Disclosure Statement considered			0
29	01/27/2006		RCAP	Reference capture on IDS			0
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28	01/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
27	01/18/2006		FWDX	Date Forwarded to Examiner			0
26	01/09/2006	01/05/2006	A...	Response after Non-Final Action		4	25
25	10/05/2005	11/04/2002	MCTNF	Mail Non-Final Rejection	1066		-1
24	10/03/2005		CTNF	Non-Final Rejection			0
23	07/25/2005		DOCK	Case Docketed to Examiner in GAU			0
22	09/09/2004		LET.	Miscellaneous Incoming Letter			0
20	05/07/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
31	01/27/2003		IDSC	Information Disclosure Statement considered			0
17.7	01/27/2003		M844	Information Disclosure Statement (IDS) Filed			0
17	01/27/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
30	09/09/2002		IDSC	Information Disclosure Statement considered			0
16.7	09/09/2002		M844	Information Disclosure Statement (IDS) Filed			0
16	09/09/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
15	08/14/2002		DOCK	Case Docketed to Examiner in GAU			0
14	07/30/2002		DOCK	Case Docketed to Examiner in GAU			0
13	04/23/2002		DOCK	Case Docketed to Examiner in GAU			0
32	01/29/2002		IDSC	Information Disclosure Statement considered			0
19	01/29/2002		RCAP	Reference capture on IDS			0
18.7	01/29/2002		M844	Information Disclosure Statement (IDS) Filed			0
18	01/29/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
11	01/16/2002		DOCK	Case Docketed to Examiner in GAU			0
10	12/19/2001		OIPE	Application Dispatched from OIPE			0
21	12/11/2001		RESC	Rescind Nonpublication Request for Pre Grant Publication			0
9	12/11/2001		COMP	Application Is Now Complete			0
7	09/25/2001		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
6	09/25/2001		C.AD	Correspondence Address Change			0
5	09/25/2001		C.AD	Correspondence Address Change			0
3	09/24/2001		C.AD	Correspondence Address Change			0
2	09/13/2001		SCAN	IFW Scan & PACR Auto Security Review			0
1	09/04/2001		IEXX	Initial Exam Team nn			0

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JENKINS, WILSON, TAYLOR & HUNT, P.A.
3100 TOWER BLVD.
SUITE 1200
DURHAM NC 27707

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,245,583	:	
Issue Date: July 17, 2007	:	
Application No. 09/947,038	:	NOTICE
Filed: September 4, 2004	:	
Attorney Docket No. 1497/119/5	:	

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 Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

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Accenture Chicago 28164
Brinks Hofer Gilson & Leone
PO Box 10395
Chicago IL 60610

MAILED
SEP 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,461,008	:
Garrow et al.	: DECISION UPON REMAND AND
Issue Date: December 2, 2008	: RECONSIDERATION OF
Application No. 09/947,136	: PATENT TERM ADJUSTMENT
Filed: September 4, 2001	: AND NOTICE OF INTENT
Attorney Docket No. 10022/30	: TO ISSUE CERTIFICATE OF
Title: Planning and Scheduling	: CORRECTION
Modification of a Configuration	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by twelve one thousand one hundred and twenty-seven (1127) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred and twenty-seven (1127) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,461,008

DATED : December 2, 2008 **DRAFT**

INVENTOR(S) : Garrow et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 927 days

Delete the phrase "by 927 days" and insert – by 1127 days--

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 09947136 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 09947136

Application Filing Date	09/04/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	12/02/2008	Non-Overlapping USPTO Delays:	1057
A Delays	1057	PTO Manual Adjustment	206
B Delays	0	Applicant Delay (APPL)	136
C Delays	0	Total PTA (days)	1127

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
122	09/15/2011		P028	Adjustment of PTA Calculation by PTO	206		0
117	12/02/2008		PTAC	Patent Issue Date Used in PTA Calculation			0
117.5	11/12/2008	09/04/2004	PTA36M	PTA 36 Months	0		0
116	11/04/2008		EFDC	Export to Final Data Capture			0
115	11/03/2008		D1935	Dispatch to FDC			0
114	11/03/2008		PILS	Application Is Considered Ready for Issue			0
113	10/31/2008		N084	Issue Fee Payment Verified			0
112	10/31/2008		IFEE	Issue Fee Payment Received			0
111	10/15/2008		MM327	Mail Miscellaneous Communication to Applicant			0
110	10/14/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
109	09/08/2008		FIDC	Finished Initial Data Capture			0
108	08/22/2008		EIDC	Export to Initial Data Capture			0
106	08/19/2008		MN/=.	Mail Notice of Allowance			0
105	08/05/2008		IREV	Issue Revision Completed			0
104	08/05/2008		DVER	Document Verification			0
103	08/05/2008		N/=.	Notice of Allowance Data Verification Completed			0
102	08/04/2008		EX.A	Examiner's Amendment Communication			0
101	08/04/2008		CNTA	Allowability Notice			0
91	05/20/2008		FWDX	Date Forwarded to Examiner			0
100	05/06/2008		IDSC	Information Disclosure Statement considered			0
92	05/06/2008	04/25/2008	M844	Information Disclosure Statement (IDS) Filed		11	90
89	05/06/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
90	04/25/2008		A...	Response after Non-Final Action			0
88	04/25/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
87	04/22/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
94	04/04/2008		IDSC	Information Disclosure Statement considered			0
93	04/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
86	01/31/2008		MCTNF	Mail Non-Final Rejection			0
85	01/30/2008		CTNF	Non-Final Rejection			0
80	11/20/2007		FWDX	Date Forwarded to Examiner			0
78	11/20/2007		FWDX	Date Forwarded to Examiner			0
76	11/20/2007		ABN9	Disposal for a RCE / CPA / R129			0
84	11/16/2007		IDSC	Information Disclosure Statement considered			0
83	11/16/2007		RCAP	Reference capture on IDS			0
82	11/16/2007		M844	Information Disclosure Statement (IDS) Filed			0
74	11/16/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
81	10/31/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
79	10/31/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
77	10/31/2007		RCEX	Request for Continued Examination (RCE)			0
73	10/31/2007		BRCE	Workflow - Request for RCE - Begin			0
72	10/10/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
71	10/01/2007		CTFR	Final Rejection			0
70	07/25/2007		FWDX	Date Forwarded to Examiner			0
69	07/16/2007	06/16/2007	A...	Response after Non-Final Action		30	65
68	07/16/2007		XT/G	Request for Extension of Time - Granted			0
65	03/16/2007		MCTNF	Mail Non-Final Rejection			0
64	03/15/2007		CTNF	Non-Final Rejection			0
63	02/20/2007		IDSC	Information Disclosure Statement considered			0
62.7	02/20/2007	11/22/2006	M844	Information Disclosure Statement (IDS) Filed		90	60
62	02/20/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
61	12/12/2006		FWDX	Date Forwarded to Examiner			0
60	11/22/2006		ELC.	Response to Election / Restriction Filed			0
59	10/20/2006	10/09/2006	MCTRS	Mail Restriction Requirement	11		51
58	10/16/2006		CTRS	Restriction/Election Requirement			0
56	08/01/2006		FWDX	Date Forwarded to Examiner			0
55	07/25/2006		SA..	Supplemental Response			0

54	07/10/2006		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
53	07/05/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
52	06/26/2006		FWDX	Date Forwarded to Examiner			0
50	06/26/2006		ABN9	Disposal for a RCE / CPA / R129			0
49	06/26/2006		DOCK	Case Docketed to Examiner in GAU			0
67	06/09/2006		IDSC	Information Disclosure Statement considered			0
66	06/09/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
51	06/09/2006		RCEX	Request for Continued Examination (RCE)			0
41	06/09/2006		BRCE	Workflow - Request for RCE - Begin			0
40	06/09/2006		DOCK	Case Docketed to Examiner in GAU			0
39	05/05/2006		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
38	05/02/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
57	03/13/2006		IDSC	Information Disclosure Statement considered			0
37	03/13/2006		RCAP	Reference capture on IDS			0
36.7	03/13/2006		M844	Information Disclosure Statement (IDS) Filed			0
36	03/13/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
35	03/09/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
34	03/06/2006		CTFR	Final Rejection			0
29	02/06/2006		DOCK	Case Docketed to Examiner in GAU			0
28	12/28/2005		FWDX	Date Forwarded to Examiner			0
33	12/20/2005		IDSC	Information Disclosure Statement considered			0
32	12/20/2005		RCAP	Reference capture on IDS			0
27	12/20/2005	12/15/2005	A...	Response after Non-Final Action		5	25
26.7	12/20/2005		M844	Information Disclosure Statement (IDS) Filed			0
26	12/20/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
25	09/15/2005	11/04/2002	MCTNF	Mail Non-Final Rejection	1046		-1
23	09/13/2005		CTNF	Non-Final Rejection			0
22	09/13/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	01/13/2005		DOCK	Case Docketed to Examiner in GAU			0
21	07/09/2004		LET.	Miscellaneous Incoming Letter			0
15	04/07/2004		DOCK	Case Docketed to Examiner in GAU			0
14	12/16/2003		DOCK	Case Docketed to Examiner in GAU			0
13	12/16/2003		DOCK	Case Docketed to Examiner in GAU			0
31	01/27/2003		IDSC	Information Disclosure Statement considered			0
18	01/27/2003		RCAP	Reference capture on IDS			0
12.7	01/27/2003		M844	Information Disclosure Statement (IDS) Filed			0
12	01/27/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
24	09/13/2002		RESC	Rescind Nonpublication Request for Pre Grant Publication			0
19	09/13/2002		RESC	Rescind Nonpublication Request for Pre Grant Publication			0
30	09/09/2002		IDSC	Information Disclosure Statement considered			0
17	09/09/2002		RCAP	Reference capture on IDS			0
11.7	09/09/2002		M844	Information Disclosure Statement (IDS) Filed			0
11	09/09/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
10	06/13/2002		DOCK	Case Docketed to Examiner in GAU			0
9	04/01/2002		DOCK	Case Docketed to Examiner in GAU			0
8	04/01/2002		DOCK	Case Docketed to Examiner in GAU			0
6	01/09/2002		OIPE	Application Dispatched from OIPE			0
5	01/02/2002		COMP	Application Is Now Complete			0
7	12/10/2001		C614	New or Additional Drawing Filed			0
4	10/09/2001		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	10/06/2001		C.AD	Correspondence Address Change			0
2	09/13/2001		SCAN	IFW Scan & PACR Auto Security Review			0
20	09/04/2001		C614	New or Additional Drawing Filed			0
1	09/04/2001		IEXX	Initial Exam Team nn			0

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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
525 B STREET
SUITE 2200
SAN DIEGO, CA 92101

Mail Date: 11/23/2010

Applicant	: Israel Jay Klein	: DECISION ON REQUEST FOR
Patent Number	: 7177598	: RECALCULATION of PATENT
Issue Date	: 02/13/2007	: TERM ADJUSTMENT IN VIEW
Application No	: 09/947,650	: OF WYETH
Filed	: 09/05/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6909782	2005-06-21	09947887	2001-09-06	42390P12872

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	◯	3 ½ year	(2551)
◯	7 ½ year	(1552)	◯	7 ½ year	(2552)
◯	11 ½ year	(1553)	◯	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2010-09-29
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6909782
Issue Date: June 21,2005
Application No. 09947887
Filed: September 6,2001
Attorney Docket No. 42390P12872

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BARRY W. CHAPIN, ESQ.
CHAPIN INTELLECTUAL PROPERTY LAW, LLC
WESTBOROUGH OFFICE PARK
1700 WEST PARK DRIVE, SUITE 280
WESTBOROUGH, MA 01581

MAILED

JAN 11 2011

OFFICE OF PETITIONS

Letter

In re Patent of Friedman et al. :
Patent No. 7,171,588 :
Issue Date: January 30, 2007 :
Application No. 09/947,932 :
Filing Date: September 6, 2001 :
Attorney Docket No. 37272-505C03US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed September 7, 2010.

The deficiency payment of $490 is hereby accepted and the change of status to large entity has been entered and made of record.

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. The file also does not indicate the person signing the instant request was ever given a power of attorney or authorization of agent in this case. While a courtesy copy of this decision is being mailed to the person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

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: Petar Kraguljac
Kraguljac & Kalnay, LLC
Summit One, Suite 510
4700 Rockside Rd
Independence, OH 44131

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RICHARD W. GOLDSTEIN
2071 CLOVE ROAD
STATE ISLAND, NY 10304

MAILED

JUN 22 2011

OFFICE OF PETITIONS

In re Patent No. 6,482,100
Issue Date: November 19, 2002
Application No. 09/948,183
Filed: September 7, 2001
Patentee(s): Arch Bacon

DECISION ON PETITION
UNDER 37 CFR 1.378(b)

This is a decision in response to the petition, filed March 2, 2011, which is being treated under the provisions of 7 CFR 1.378(b) as a petition to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued November 19, 2002. The second maintenance fee could have been paid from November 19, 2009, through May 19, 2010, or with a surcharge during the period from May 20, 2010 through November 19, 2010. Accordingly, the patent expired at midnight November 19, 2010, 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 is not found to comply with any of the requirements of 37 CFR 1.378(b).

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).

As to item (1), petitioner states that the delay in payment of the maintenance fee was unavoidable due to his physical infirmities and lack of employment at the time in question. Petitioner also indicates that his wife was very ill and subsequently died in May of last year.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

Acceptance of late payment of a maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses the identical language, i.e. "unavoidable delay". Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)). Decisions on reviving abandoned applications have adopted the "reasonably prudent person" standard in determining if the delay in responding to an Office action was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-515 (D.C. Cir. 1912); and Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141. In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due to his medical conditions until the petition was filed.

In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra. Put otherwise, the issues of petitioner's health problems are immaterial in the absence of a showing that this, 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, he will have to provide documents from licensed health care providers, demonstrating the nature and extent of his incapacitation, in such a manner that he was,

from the date of expiry until the filing of the petition on March 2, 2011, "unavoidably" prevented from taking any earlier action with respect to this patent. Additionally, petitioner must state how he managed to conduct his daily personal and business affairs, including scheduling and settlement of short and long term debts and business obligations, bills, rent or mortgage payments, income taxes etc., during the time in question. Petitioner must demonstrate that his health problems were such as to cause the payment of the maintenance fee to have been unavoidably delayed.

As to items (2) and (3), petitioner submitted fees totaling $700. Since the second maintenance fee is $1,240, that leaves a balance of $540 towards the maintenance fee ($1,240 – 700 = $540). Also, the $700 surcharge set forth in 37 CFR 1.20(i)(1) is required. Therefore, the fees required for treatment of the present petition were deficient by $1,240 ($540 + 700 = $1,240).

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 above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

Alternatively, petitioner may request reinstatement by way of a petition under the provision 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 promptly filed accompanied by: (1) a statement that the delay was unintentional; (2) payment of the $540 balance of the maintenance fee; and (3) payment of the $1,640 surcharge set forth in 37 CFR 1.20(i)(2).

Petitioner should note that if the petition under 37 CFR 1.378(b) is not renewed or if renewed and not granted, then the $700 maintenance fee that was submitted is refundable. See 37 CFR 1.378(e). Any request for refund should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,444,574	2002-09-03	09/948,485	2001-09-06	LKSP0135USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Winston Hsu/	Date (YYYY-MM-DD)	2012-04-09
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.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6444574
Issue Date: September 3,2002
Application No. 09948485
Filed: September 6,2001
Attorney Docket No. B-4302 619066-7

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 9,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 9,2012 . 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
APR 05 2011
OFFICE OF PETITIONS

In re Patent No. 6,858,006 :
Issue Date: February 22, 2005 :
Application No. 09/948,997 : DECISION ON PETITION
Filed: September 07, 2001 :
Attorney Docket No. **20215-000110US** :

This is a decision on the petition under 37 CFR 1.378(c), filed November 22, 2010, with a certificate of mailing date November 18, 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 Director.

This patent expired at midnight on February 22, 2009 for failure to pay the three and one half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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. It is noted that the submission is signed by Daniel Cain who is neither an inventor nor an attorney registered to practice before the office. Also, it is not clear from the file record if Daniel Cain is authorized to act on behalf of the assignee. Petitioner should note that an assignee must comply with the requirements of 37 CFR 3.73(b). See MPEP § 324. A copy of form PTO/SB96 is enclosed for petitioner's use.

The application file indicates a change of address has been filed in this case, concurrently with the instant petition. However, the request filed in this case is not 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 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.

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 Tredelle Jackson at 571-272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **DANIEL F. CAIN**
2900 SOUTH COLLEGE AVE.
STE LC FORT COLLINS CO 80525

Encl: PTO/SB/96

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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KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Patent No. 6,858,006	:	:
Issue Date: February 22, 2005	:	DECISION ON PETITION
Application No. 09/948,997	:	
Filed: September 07, 2001	:	
Patentee(s): Dean J. MACCARTER et al		

REQUIREMENT FOR ADDITIONAL INFORMATION AND/OR FEE(S) DUE

A renewed petition under 37 CFR 1.378(c) was filed on May 26, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent. It is noted that a statement under 3.73(b) signed by Dainel Cain, was filed on May 26, 2011. However, the statement as filed is unacceptable, since it does not state the Reel and Frame number where the assignment has been recorded. Petitioner should note that an assignee must comply with the requirements of 37 CFR 3.73(b). See MPEP § 324.

The response should include a cover letter entitled "Supplemental Response to Requirement for Additional Information and/or Fee(s) Due."

At the end of the two-month period specified above, a decision will be rendered on the renewed petition under 37 CFR 1.378, including any supplemental information submitted in response to this Requirement for Additional Information. **Thereafter, no further reconsideration or review of this matter will be undertaken.**

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 Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: DANIEL F. CAIN
2900 SOUTH COLLEGE AVE.
STE LC FORT COLLINS CO 80525

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

JUL 14 2011

OFFICE OF PETITIONS

Organogenesis, Inc.
150 Dan Road
Canton MA 02021

In re Patent No. 6,890,351 :
Issue Date: May 10, 2005 : ON PETITION
Application No.: 09/949,043 :
Filed: September 7, 2001 :

This is a decision on the petition under 37 CFR 1.378(c), filed May 6, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

This petition expired on May 11, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provide in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

37 CFR 1.378(c) requires any petition under 37 CFR 1.378 be accompanied by the maintenance fee. The three and one-half year maintenance fee is $980 ($490 small entity). The instant petition has included a maintenance fee of $480, which is insufficient for payment of the three and one-half year maintenance fee. As the maintenance fee payment is insufficient, the petition cannot be granted. Also, the petition indicates that payment is not for a small entity. However, USPTO records reflect that petitioner is a small entity. Any renewed petition should clarify petitioner's entity status.

If this petitioner is not renewed or if renewed and not granted, then petitioner may request a refund of the maintenance fee 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 PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

for 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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SEP 14 2011

OFFICE OF PETITIONS

Organogenesis, Inc.
150 Dan Road
Canton MA 02021

In re Patent No. 6,890,351	:	
Issue Date: May 10, 2005	:	ON PETITION
Application No.: 09/949,043	:	
Filed: September 7, 2001	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed August 9, 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 11, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provide 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 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).

Ramesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6874039	2005-03-29	09949461	2001-09-07	42390P12873

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	◯ 3 ½ year	(2551)
◯ 7 ½ year	(1552)	◯ 7 ½ year	(2552)
◯ 11 ½ year	(1553)	◯ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2010-10-12
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. 6874039
Issue Date: March 29,2005
Application No. 09949461
Filed: September 7,2001
Attorney Docket No. 42390P12873

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JOHNSON & ASSOCIATES
PO BOX 90698
AUSTIN, TX 78709-0698

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of
Ronald R. Bush
Application No. 09/950,190
Filed: September 10, 2001
Attorney Docket No. 69925.P0010

DECISION ON PETITION

This is a decision on the petition, filed October 11, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of August 24, 2005, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before November 26, 2005.

A review of the record shows that a reply to the Office action was received in the Office on November 22, 2005. An Advisory action was mailed on December 21, 2005 stating the intent of the Examiner with withdraw the finality of the Office action mailed August 24, 2005. Accordingly the application was not abandoned.

In view of the above, the Notice of Abandonment is hereby **vacated** and the holding of abandonment **withdrawn**.

Telephone inquiries concerning this decision should be directed to the April M. Wise at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to the Technology Center Art Unit 2129 for the removal of the finality of the Office action mailed August 24, 2005 and consideration of amendment filed November 22, 2005.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 7

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

OCT 2 1 2010

OFFICE OF PETITIONS

In re Patent No. 6487064	:	
Issue Date: 11/26/2002	:	
Application Number: 09/950222	:	NOTICE
Filing or 371(c) Date: 09/10/2001	:	
Attorney Docket Number: L11852 B	:	

This is a notice regarding the correspondence filed on August 5, 2010, regarding acceptance of a fee deficiency pursuant to 37 CFR 1.28(c).

The paper cannot be accepted for the following reason:

The paper is not properly signed. 37 CFR 1.33(b) states 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.

The person who signed the subject paper, Julie McConnaughhay, Payments Director for Thomson Reuters, does not appear to be a proper person to sign the subject paper in accordance with 37 CFR 1.33(b).

Patentees should file a properly signed statement in accordance with 37 CFR 1.28(c) and within **one (1) month** of the mailing date of this Notice.

Receipt is acknowledged of the letter signed by registered patent practitioner Richard M. Moose, stating that the subject patent qualifies as a large entity. Small entity status will no longer apply.

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 Building
Alexandria VA 22314

Receipt of the fee payment filed with the subject paper is acknowledged.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc:

DORITY & MANNING
55 SCATTIE PLACE
GREENVILLE SC 29601

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas TX 75219

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of :
Kadlec et al. :
Application No. 09/950,373 :
Patent No. 7,023,766 : DECISION ON PETITION
Filed: September 10, 2001 : UNDER 37 C.F.R. § 1.378(C)
Issue Date: April 4, 2006 :
Attorney Docket Number: M-12103 :
US :
Title: FLEXIBLE SERVICING OF :
SERVO ALGORITHMS USING A :
DIGITAL SIGNAL PROCESSOR :

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, 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 April 4, 2006. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on April 4, 2010, with no payment received. Accordingly, the patent expired on April 4, 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

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.

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 delay[1]. 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

1 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).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas TX 75219

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NOV 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Kadlec	:	
Application No. 09/950,379	:	
Patent No. 7,016,280	:	DECISION ON PETITION
Filed: September 10, 2001	:	UNDER 37 C.F.R. § 1.378(C)
Issue Date: March 21, 2006	:	
Attorney Docket Number: M-12105	:	
US	:	
Title: TRACKING AND FOCUS SERVO	:	
SYSTEM WITH DEFECT DETECTION	:	

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, 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 March 21, 2006. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on March 21, 2010, with no payment received. Accordingly, the patent expired on March 21, 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

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.

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 delay[1]. 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

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1 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).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE CA 95110

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of :
Kadlec et al. :
Application No. 09/950,395 :
Patent No. 7,020,054 : DECISION ON PETITION
Filed: September 10, 2001 : UNDER 37 C.F.R. § 1.378(C)
Issue Date: March 28, 2006 :
Attorney Docket Number: M-12091 :
US :
Title: DIGITAL SERVO SYSTEM :
WITH BIASED FEED-FORWARD :
:

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, 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 March 28, 2006. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on March 28, 2010, with no payment received. Accordingly, the patent expired on March 28, 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

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.

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 delay[1]. 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

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1 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).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas TX 75219

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Patent No. 6,922,380 :
Issue Date: July 26, 2005 :
Application No. 09/950,432 : ON PETITION
Filed: September 10, 2001 :
Attorney Docket No. **M-12104 US** :

This is a decision on the petition under 37 CFR 1.378(c), filed October 18, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight July 26, 2009, for failure to pay the 3½ 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 hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
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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Paper No.

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE CA 95110

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Watt et al. :
Application No. 09/950,512 :
Patent No. 6,950,380 :
Filed: September 10, 2001 :
Issue Date: September 27, 2005 :
Attorney Docket Number: M-12102 :
US :
Title: DETECTOR INPUT DARK :
CURRENT OFFSET CALIBRATION IN :
AN OPTICAL DISK DRIVE DIGITAL :
SERVO :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.378(C)

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, 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 September 27, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on September 27, 2009, with no payment received. Accordingly, the patent expired on September 27, 2009 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

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.

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 delay[1]. 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

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1 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).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas TX 75219

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Kadlec :
Application No. 09/950,513 :
Patent No. 6,909,676 :
Filed: September 13, 2001 :
Issue Date: June 21, 2005 :
Attorney Docket Number: M-12089 :
US :
Title: DIGITAL TRACKING SERVO :
SYSTEM WITH MULTI-TRACK SEEK :
WITH TRACK ZERO CROSSING :
DETECTION :

DECISION ON PETITION
UNDER 37 C.F.R. § 1.378(C)

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, 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 June 21, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on June 21, 2009, with no payment received. Accordingly, the patent expired on June 21, 2009 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

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.

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 delay[1]. 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

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1 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).

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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OFFICE OF PETITIONS

HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS TX 75219

In re Patent No. 6,937,543	:	
Issue Date: August 30, 2005	:	
Application No. 09/950,514	:	ON PETITION
Filed: September 10, 2001	:	
Attorney Docket No. M-12155 US	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 22, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 31, 2009 for failure to pay the first 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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

JONATHAN W. HALLMAN
18100 VON KARMAN AVE., SUITE 750
IRVINE, CA 92612

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Paper No.

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OFFICE OF PETITIONS

Alan MacPherson
MacPherson Kwok Chen & Heid LLP
1762 Technology Drive
Suite 226
San Jose CA 95110

In re Application of Kadlec et al. Application No. 09/950,540 Patent No. 6,930,963 Filed: September 10, 2001 Issue Date: August 16, 2005 Attorney Docket Number: M-12112 US Title: TRACKING AND FOCUS SERVO SYSTEM WITH HEAD LOAD	DECISION ON PETITION UNDER 37 C.F.R. § 1.378(C)

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, 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 August 16, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on August 16, 2009, with no payment received. Accordingly, the patent expired on August 16, 2009 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

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.

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 delay[1]. 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

1 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).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

MACPHERSON KWOK CHEN & HEID LLP
1762 TECHNOLOGY DRIVE
SUITE 226
SAN JOSE CA 95110

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of :
Kadlec et al. :
Application No. 09/950,541 :
Patent No. 7,023,776 : DECISION ON PETITION
Filed: September 10, 2001 : UNDER 37 C.F.R. § 1.378(C)
Issue Date: April 4, 2006 :
Attorney Docket Number: M-12097 :
US :
Title: CALIBRATION INITIATION :
METHODS FOR A TRACKING AND :
FOCUS SERVO SYSTEM :

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, 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 April 4, 2006. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on April 4, 2010, with no payment received. Accordingly, the patent expired on April 4, 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 the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. 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.

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 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.

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 delay[1]. 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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

1 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).
2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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NOV 15 2010
OFFICE OF PETITIONS

REVEO, INC.
6 SKYLINE DRIVE
HAWTHORNE NY 10523

In re Patent No. 7,045,878	:	
Issue Date: May 16, 2006	:	
Application No. 09/950,909	:	DECISION ON PETITION
Filed: September 12, 2001	:	
Attorney Docket No. **REVEO-0146USAAON00**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed June 09, 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 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 (3) above in that the total amount due for the surcharge is $1640 for unintentional delay. Petitioner paid $65 for the surcharge and the balance of $1575 is now due.

Petitioner should note that a renewed petition must be accompanied by a payment of $1975 that includes the balance due towards the surcharge and the $400 fee for a renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By 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 Tredelle Jackson at 571-272-2783.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

In re Patent No. 6,953,886	:	DECISION GRANTING PETITION
Issue Date: October 11, 2005	:	UNDER 37 CFR 1.78(a)(3) AND
Application No. 09/951,040	:	REQUEST FOR CERTIFICATE OF
Filed: September 12, 2001	:	CORRECTION
Attorney Docket No. 104130-0001P3	:	

This is a decision on the petition, filed February 17, 2001, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/098,843, filed May 15, 2001, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed September 12, 2001. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410.00 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's deposit account.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/951,040	09/12/2001	2837	420	104130-0001P3	12	2

CONFIRMATION NO. 3061

CORRECTED FILING RECEIPT

24267
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

OC000000048467345

Date Mailed: 06/28/2011

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)

Brian M. Looney, Lexington, MA;
Evan Lampros, Bridgewater, MA;
Howard Hull, Attleboro, MA;

Power of Attorney:
Howard Fuhrman--33175

Domestic Priority data as claimed by applicant

This application is a CIP of 09/855,858 05/15/2001 ABN
which is a CON of 09/419,559 10/18/1999 PAT 6,232,539
which is a CON of 09/098,843 06/17/1998 PAT 5,969,283

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: 10/05/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/951,040**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

MEDIA ORGANIZER AND ENTERTAINMENT CENTER

Preliminary Class

084

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,566,884	2003-05-20	09/951,235	2001-09-13	A-70177 (468018-3)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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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	/37085/	Date (YYYY-MM-DD)	2011-06-27
Name	EDWARD N. BACHAND, ESQ.	Registration Number	37085

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a 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. 6566884
Issue Date: May 20,2003
Application No. 09951235
Filed: September 13,2001
Attorney Docket No. A-70177/AJT

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 27,2011 ,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 June 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6478841
Issue Date: November 12,2002
Application No. 09951370
Filed: September 12,2001
Attorney Docket No. 871-010983

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 17,2011 ,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 June 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.

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PTO/SB/66 (03-09)
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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)
6478841	2002-11-12	09951370	2001-09-12	4495-010983

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading 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	Fee	Code	Small Entity	Fee	Code
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SURCHARGE
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STATEMENT
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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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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	/Dominic M. Faccone/	Date (YYYY-MM-DD)	2011-06-17
Name	Dominic M. Faccone		
Enter Reel and Frame Number		Remove	
Reel Number	026260	Frame Number	0781
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,572,769	2003-06-03	09951479	2001-09-14	030.0001-US01

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○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

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○ The assignee of record of the entire interest

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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	/Joseph A. Parisi, Reg. No. 53,435/	Date (YYYY-MM-DD)	2011-06-23
Name	Joseph A. Parisi	Registration Number	53435

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6572769
Issue Date: June 3,2003
Application No. 09951479
Filed: September 14,2001
Attorney Docket No. 048953-5001-02

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 23,2011 ,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 June 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

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MICHAEL A. O'NEIL
MICHAEL A.O'NEIL, P.C.
SUITE 820
5949 SHERRY LANE
DALLAS TX 75225

MAILED
AUG 24 2010
OFFICE OF PETITIONS

In re Patent No. 6,462,243 :
Issue Date: October 8,2002 :
Application No. 09/951,570 : NOTICE
Filed: September 11, 2001 :
Attorney Docket No. 300100-1044 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on May 27, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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:

BAKER BOTTS L.L.P.
ONE SHELL PLAZA
910 LOUISIANA
HOUSTON, TX 77002

UNITED STATES 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 A. O'NEIL,P.C.
8150 NORTH CENTRAL EXPRESSWAY
SUITE 1150
DALLAS TX 75206

MAILED

AUG 25 2010

OFFICE OF PETITIONS

In re Patent No. 6,403,840 :
Issue Date: June 11, 2002 :
Application No. 09/951,581 : NOTICE
Filed: September 11, 2001 :
Attorney Docket No. 300100-1044 :

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/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

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ONE SHELL PLAZA
910 LOUISIANA
HOUSTON, TX 77002

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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PASTEL LAW FIRM
8 PERRY LANE
ITHACA NY 14850

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Application of :
Tremiolles et al. :
Application No. 09/951,786 :
Filed: September 12, 2001 :
Attorney Docket No. FR920000025USI :
For: METHOD AND CIRCUITS FOR ASSOCIATING A COMPLEX OPERATOR TO EACH COMPONENT OF AN INPUT PATTERN PRESENTED TO AN ARTIFICIAL NEURAL NETWORK

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed December 15, 2005 (certificate of mailing date December 13, 2005), requesting that the Office withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was filed on September 12, 2001. As noted by applicants' postcard return receipt, a copy of which was submitted on November 22, 2004, the Office acknowledged receipt of *inter alia*, 29 pages of specification, 7 claims, and 8 sheet of drawings. The invention was titled, "Method of Circuits for Associating a Complex Operator to Each Component of an Input Pattern Presented to an Artificial...." Applicants filed an IDS and a copy of a French patent application, EP 00480064.5, on September 12, 2001, as well.

The Office erroneously processed the French patent application as the application papers and mailed a filing receipt on October 11, 2001 that corresponded to the French patent application. The title was listed as "Method and Circuits for Associating a Norm to Each Component of an Input Pattern Presented to a Neural Network", the total number of claims was 11, and the number of independent claims was 6. On October 11, 2001, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, requesting applicants submit the basic filing fee, total additional claim fees of $240.00 for 3 independent claims over 3, and a $130.00 late filing fee surcharge.

Applicants filed the basic filing fee, a copy of the 7 claim specification that was filed on September 12, 2001, and a request for corrected filing receipt on January 4, 2002 (certificate of

mailing date December 10, 2001) because the title of the invention, the total number of claims, and the number of independent claims were incorrect.

On January 23, 2002, the Office mailed a Withdrawal of Previously Sent Notice and a request for applicants to submit the $130.00 late filing fee surcharge. The Office mailed a filing receipt showing the correct total number of claims and the correct number of independent claims, but did not change the title.

Applicants again filed a request to correct the title on February 25, 2002 (certificate of mailing February 5, 2002).

On March 12, 2002, applicants submitted the $130.00 late filing fee surcharge.

The Office mailed a non-final Office action on August 17, 2004 that examined the French patent application that had 11 claims, not the new application that had 7 claims. On November 22, 2004 (certificate of mailing date November 17, 2004), applicant filed a reply which, in essence, asserted the Office examined the wrong set of claims, provided a copy of the new application filed on September 12, 2001, and requested the Office examine the new application.

On November 22, 2005 the Office mailed a Notice of Abandonment stating that the November 22, 2004 response was improper.

Petitioners request withdrawal of the holding of abandonment and request the Office examine the 7 claim specification filed on September 12, 2001.

The feeless petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the November 25, 2005 Notice of Abandonment is **vacated**. The Office clearly examined the wrong application, as is established by applicants' return postcard receipt, and applicants responded to all Office correspondence in a timely manner, while attempting to correct the Office's errors. Please find enclosed a corrected filing receipt.

Regarding fees, the $400.00 petition fee submitted on December 15, 2005 (certificate of mailing date December 13, 2005) will be refunded via Treasury check.

Accordingly, the application file will be forwarded to Technology Center A.U. 2129 for examination of the 7 claim specification filed on September 12, 2001.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: corrected filing receipt for Application No. 09/951,786

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/951,786	09/12/2001	2121	870	FR920000025USI	7	2

CONFIRMATION NO. 3491

CORRECTED FILING RECEIPT

76659
PASTEL LAW FIRM
8 PERRY LANE
ITHACA, NY 14850

OC000000047451831

Date Mailed: 05/02/2011

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)

Ghislain Imbert de Tremiolles, Saint Paul, FRANCE;
Pascal Tannhof, Fontainebleau, FRANCE;

Assignment For Published Patent Application

International Business Machines Corporation, Armonk, NY

Power of Attorney: The patent practitioners associated with Customer Number 49389

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.)
FRANCE EP00480119.7 12/13/2000

If Required, Foreign Filing License Granted: 10/10/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/951,786**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND CIRCUITS FOR ASSOCIATING A COMPLEX OPERATOR TO EACH COMPONENT OF AN INPUT PATTERN PRESENTED TO AN ARTIFICIAL NEURAL NETWORK

Preliminary Class

706

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Patent: 6,797,765
Inventor: Tony PEARCE
Application No. 09/952,035
Filed: September 11, 2001

DECISION ON PETITION

This is a decision on the petition filed February 26, 2010, that is seeking to expunge information identified in the instant petition, "from any and all of (a) the prosecution history, (b) the published patent application, and (c) the issued patent."

The petition to expunge is **DISMISSED**.

The material being sought to be expunged forms part of the original disclosure. A petition to expunge a part of the original disclosure must be filed under 37 CFR 1.183, since such a request requires a waiver of the requirements of 37 CFR 1.59(a). Petitions under 37 CFR 1.183 should be directed to the Office of Petitions. The petition must explain why justice requires waiver of the rules to permit the requested material to be expunged. *See Manual of Patent Examining Procedure (MPEP) § 724.05(IV)*. In seeking the expungement, petitioner states, "[h]owever, the undersigned has been requested by the OED to pursue removal of the material in order to bring the case into compliance with MPEP 608.01(r). Accordingly, the undersigned respectfully petitions the Office to expunge the identified material." The instant petition is not accompanied by a copy of the directive from OED.

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. In this instance, the petition under 37 CFR 1.183 requires a fee under 37 CFR 1.17(f) that is currently $400. The petition in the above-identified application was <u>not</u> accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.183". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272 - 4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: Daniel McCarthy
2053 Pinetree Village
Brighton, Utah 84121

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Francis J. Sweeney
CATEX
475 Wall St.
Princeton NJ 08540

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of
Francis Sweeney
Application No. 09/952,299
Filed: September 14, 2001
Attorney Docket No. 4677-105

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 18, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 3, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned at midnight May 3, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Petitioner 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).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3213.

Cheryl Gibson-Baylor

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

BRIGGS AND MORGAN P.A.
2200 IDS CENTER
80 SOUTH 8TH ST
MINNEAPOLIS, MN 55402

In re Application of	:	
Brinton et al.	:	DECISION ON PETITION
Application No. 09/952,365	:	FOR PATENT TERM ADJUSTMENT
Filed: September 11, 2011	:	
Attorney Docket No. 34263.2	:	

This is a decision on the "Application for Patent Term Adjustment under 37 CFR 1.705(B)" filed June 24, 2011, which is being treated as a petition under 37 C.F.R. § 1.705(b) requesting the initial determination of patent term adjustment be corrected from 371 days to 961 days.

The petition is **granted**.

The Office has updated the Office's PALM system to reflect the correct patent term adjustment determination at the time of the mailing of the Notice of Allowance is 961 days. A copy of an updated and revised PALM screen showing the correct determination is enclosed.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on March 24, 2011, advising Applicants of a patent term adjustment to date of 371 days. The petition asserts the correct patent term adjustment as of the mailing date of the Notice of Allowance is 961 days.

The petition indirectly asserts the Office should have entered a 3-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b), instead of a 642-day reduction, for Applicants' delay in responding to a Notice to File Missing Parts on October 12, 2001.

A review of the record indicates a response to the October 12, 2001 notice was filed January 15, 2002. The number of days beginning January 13, 2002, the day after the date three months after the issuance of the notice, and ending January 15, 2002, the date the reply was filed, is 3 days. Therefore, the Office agrees a 3-day, not a 642-day, reduction in patent term adjustment is warranted for Applicants' delay in responding to the October 12, 2011 notice.

The petition indirectly asserts the following facts should have resulted in a reduction in patent term adjustment of 362 days, not 313 days, after removal of overlapping periods of delay:

1. An amendment was filed July 23, 2008;

2. A Notice of Non-Compliant Amendment was mailed August 21, 2008;
3. The application became abandoned on September 22, 2008;
4. A Notice of Abandonment was mailed April 1, 2009;
5. A petition under 37 C.F.R. § 1.137(a) was filed May 7, 2009;
6. A decision dismissing the May 7, 2009 petition was mailed May 22, 2009;
7. A petition under 37 C.F.R. § 1.137(b) was filed June 12, 2009; and
8. A decision granting the June 12, 2009 petition was mailed July 20, 2009.

A review of the record indicates the Office should have entered a "net" reduction in patent term adjustment of 362 days based on the listed facts.

In view of the prior discussion, the correct initial patent term adjustment determination is 961 days, which is 1,575 days of Office delay reduced by 614 days of delay under 37 C.F.R. § 1.704.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged. No additional fee is required.

Applicants are reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and Applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that will be mailed approximately three weeks prior to issuance.

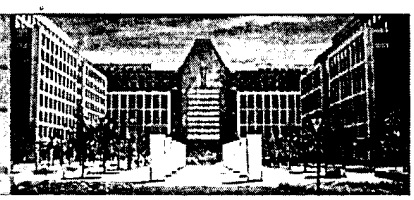
The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Patent Term Adjustments



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 09952365 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 09952365

Application Filing Date	09/11/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1575
A Delays	1575	PTO Manual Adjustment	590
B Delays	0	Applicant Delay (APPL)	1204
C Delays	0	Total PTA (days)	961

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
108	08/16/2011		P028	Adjustment of PTA Calculation by PTO	590		0
100	03/24/2011		MN/=.	Mail Notice of Allowance			0
99	03/23/2011		N/=.	Notice of Allowance Data Verification Completed			0
98	03/23/2011		IREV	Issue Revision Completed			0
97	03/23/2011		DVER	Document Verification			0
96	03/18/2011		EX.A	Examiner's Amendment Communication			0
95	03/18/2011		CNTA	Allowability Notice			0
91	03/10/2011		FWDX	Date Forwarded to Examiner			0
90	03/09/2011		A.NE	Amendment after Final Rejection			0
89	01/10/2011		MCTFR	Mail Final Rejection (PTOL - 326)			0
88	01/10/2011		CTFR	Final Rejection			0
87	11/27/2010		FWDX	Date Forwarded to Examiner			0
86	11/23/2010	07/15/2010	A...	Response after Non-Final Action		131	82
85	11/23/2010		XT/G	Request for Extension of Time - Granted			0
84	09/02/2010		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
83	07/17/2010		FWDX	Date Forwarded to Examiner			0
82.2	07/15/2010		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
82	07/15/2010	05/24/2010	A...	Response after Non-Final Action		52	79
81	06/28/2010		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
80	05/26/2010		FWDX	Date Forwarded to Examiner			0
79.1	05/24/2010		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
79	05/24/2010		A...	Response after Non-Final Action			0
78	02/24/2010		MCTNF	Mail Non-Final Rejection			0
77	02/23/2010		CTNF	Non-Final Rejection			0
75	12/28/2009		FWDX	Date Forwarded to Examiner			0
76	12/11/2009		FEE.	Fee Payment Recorded (fees filed separately e.g. not with original papers, etc).			0
74	12/11/2009		A...	Response after Non-Final Action			0
73	10/14/2009		MCTNF	Mail Non-Final Rejection			0
72	10/10/2009		CTNF	Non-Final Rejection			0
71	09/03/2009		FWDX	Date Forwarded to Examiner			0
70	08/22/2009		ELC.	Response to Election / Restriction Filed			0
69	08/12/2009		MCTRS	Mail Restriction Requirement			0
68	08/12/2009		CTRS	Restriction/Election Requirement			0
67	08/12/2009		FWDX	Date Forwarded to Examiner			0
65	07/20/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
64	07/20/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
62	07/20/2009		MPREV	Mail-Petition to Revive Application - Granted			0
61	07/20/2009	04/01/2009	PREV	Petition to Revive Application - Granted		110	56
66	06/12/2009	11/21/2008	A...	Response after Non-Final Action		203	54
60	06/12/2009		PET.	Petition Entered			0
59	05/22/2009		MPTDI	Mail-Petition Decision - Dismissed			0
58	05/22/2009		PTDI	Petition Decision - Dismissed			0
57	05/07/2009		PET.	Petition Entered			0
56	04/01/2009		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
55	03/30/2009		ABN2	Aband. for Failure to Respond to O. A.			0
54	08/21/2008		MCPA-AMD	Mail Notice of Informal or Non-Responsive RCE Amendment			0
53	08/18/2008		CPA-AMD	RCE Amendment Informal or Non-Responsive			0
52	07/29/2008		FWDX	Date Forwarded to Examiner			0
50	07/29/2008		FWDX	Date Forwarded to Examiner			0
48	07/29/2008		ABN9	Disposal for a RCE / CPA / R129			0
51	07/23/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
49	07/23/2008	06/26/2008	RCEX	Request for Continued Examination (RCE)		27	46
47	07/23/2008		BRCE	Workflow - Request for RCE - Begin			0
46	03/26/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0

45	03/20/2008		CTFR	Final Rejection			0
44	02/15/2008		FWDX	Date Forwarded to Examiner			0
43	01/23/2008		A...	Response after Non-Final Action			0
42	10/25/2007		MCTNF	Mail Non-Final Rejection			0
41	10/24/2007		CTNF	Non-Final Rejection			0
40	09/17/2007		FWDX	Date Forwarded to Examiner			0
39	09/07/2007		A...	Response after Non-Final Action			0
38	08/14/2007		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
37	06/11/2007		MCTNF	Mail Non-Final Rejection			0
36	06/07/2007		CTNF	Non-Final Rejection			0
35	05/22/2007		FWDX	Date Forwarded to Examiner			0
34	05/14/2007	04/05/2007	ELC.	Response to Election / Restriction Filed		39	31
33	04/20/2007		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
32	04/11/2007		FWDX	Date Forwarded to Examiner			0
31.1	04/05/2007		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
31	04/05/2007		ELC.	Response to Election / Restriction Filed			0
30	03/05/2007	11/11/2002	MCTRS	Mail Restriction Requirement	1575		0.5
29	03/01/2007		CTRS	Restriction/Election Requirement			0
28	02/08/2007		DOCK	Case Docketed to Examiner in GAU			0
27	11/15/2006		C.ADB	Correspondence Address Change			0
26	06/22/2006		MPTDI	Mail-Petition Decision - Dismissed			0
23	09/09/2005		OIPE	Application Dispatched from OIPE			0
22	09/09/2005		COMP	Application Is Now Complete			0
18	09/09/2005		LFRCOMP	Reconstruction Completed			0
17	09/09/2005		LFRECON	Reconstruction of File - Begin			0
16	09/09/2005		LFNOREC	Determination - No Reconstruction of File to Occur			0
24	08/22/2005		PET.	Petition Entered			0
25	06/06/2005		LET.	Miscellaneous Incoming Letter			0
15	03/18/2005		LFLOST	File Marked Lost			0
14	04/05/2004		DOCK	Case Docketed to Examiner in GAU			0
13	10/28/2003		MPREV	Mail-Petition to Revive Application - Granted			0
11	10/28/2003		MPTDI	Mail-Petition Decision - Dismissed			0
21	10/16/2003	01/12/2002	ADDFLFEE	Additional Application Filing Fees		642	4
20	10/16/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
12	10/16/2003		PET.	Petition Entered			0
10	10/16/2003		PET.	Petition Entered			0
9	09/30/2003		MPTDI	Mail-Petition Decision - Dismissed			0
8	08/29/2003		PET.	Petition Entered			0
19	08/06/2003		WPABN	Withdraw Pre-Exam Abandon			0
6	07/17/2003		PA.B	Change in Power of Attorney (May Include Associate POA)			0
5	07/17/2003		C.ADB	Correspondence Address Change			0
7	12/13/2001		ABNX	Abandonment -- During Preexam Processing			0
4	10/12/2001		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	10/11/2001		C.AD	Correspondence Address Change			0
2	09/19/2001		SCAN	IFW Scan & PACR Auto Security Review			0
1	09/11/2001		IEXX	Initial Exam Team nn			0
0.5	09/11/2001		EFILE	Filing date			0

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OCT 20 2010
OFFICE OF PETITIONS

DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON OR 97008

In re Patent of Levy	: DECISION ON REQUEST
Patent No. 7,756,892	: FOR RECONSIDERATION OF
Issued: July 13, 2010	: PATENT TERM ADJUSTMENT
Application No. 09/952,384	: AND
Filed: September 11, 2001	: NOTICE OF INTENT TO ISSUE
Docket No. P0435	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed July 13, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand two hundred eighty (2280) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by two thousand two hundred eighty (2280) days is **GRANTED to the extent indicated herein**.

Patentee asserts the total period of adjustment is 2280 days, which is the sum of 450 days of delay pursuant to 35 U.S.C. 154(b)(1)(A)("A delay") and 2131 days delay pursuant to 35 U.S.C. 154(b)(1)(B) ("B delay"), reduced by 301 days of applicant delay.

The period of A delay is 477, not 450 days. Patentee's calculation of 450 days of A delay fails to take into consideration the 27 day adjustment for the Office's delay in mailing a final Office action on March 11, 2005 in response to applicant's response after non-final , filed October 12, 2004.

The maximum B delay period begins on September 12, 2004 and ends on July 13, 2010, the date of issuance of the patent. It is 2131 as patentee asserts. However, pursuant to 37 CFR 1.702(b)(4), 357 days are excluded as appellate period beginning on the date the Notice of Appeal was filed, June 16, 2005, and ending on the day a non-final Office action was mailed, June 7, 2006. There are no overlapping days. As such, B delay period is 1744 (2131 – 357) days.

The period of Applicant delay is 303, not 301 days. Patentee's calculation of 301 days fails to take into consideration the 2 day delay in payment of the issue fee. A Notice of Allowance was mailed on March 5, 2010 and applicant paid the issue fee on June 7, 2010, three months and 2 days later.

In light of the above, the patent term adjustment is 1948 days, which is the sum of 477 days of A delay and 1744 days of B delay, reduced by 313 days of applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges receipt of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand nine hundred forty-eight (1948)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,756,892 B2

DATED : **July 13, 2010** **DRAFT**

INVENTOR(S) : Levy

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1949 days

Delete the phrase "by 1949 days" and insert – by 1948 days--

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Paper No. 13

Yen Jung Sung
30-47 37 St.
Astoria NY 11103

MAILED

FEB 18 2011

OFFICE OF PETITIONS

In re Patent No. 6,572,402 :
Issued: June 3, 2003 :
Application No. 09/952,969 : ON PETITION
Filed: September 17, 2001 :
Attorney Docket No. TROXELL LAW OFFICE PLLC :

This is in response to the "Response to Request for Information" filed August 15, 2010, and the petition under 37 CFR 1.378(b) filed March 26, 2010.

The petition is **dismissed**.

The patent issued June 3, 2003. The 3.5 year maintenance fee could have been paid from June 3, 2006, through December 3, 2006, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from December 4, 2006, to June 3, 2007. Petitioner did not do so. Accordingly, the patent expired at midnight on June 3, 2007.

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).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1]

[1]The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . .if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36), 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d agencys' interpretation of a statute it administers is entitle to deference"); see also Chevron U.S.A. Inc, v. Natural Resources Defense Counsil, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute s silent or

However, "[t]he question of whether an applicant's delay in prosecuting an application was unavoidable [will]be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawarness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.[3] The statute requires a "showing" by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.[4] The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.[5] Even if the Office were required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.[6]

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ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."))

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409, 763, 7 U.S.P.Q.2d BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat 31, 32-33 (1887)).

[2]Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3]See Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable " delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (plaintiffs, through their counsel's action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[4]Nonawarness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. *BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs, through their counsel's actions, or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

[5]Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner's no timely-notice interpretation." Ray v. Comer, 1994 U.S. Dist.

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

By the instant petition and Response to Request for Information, petitioner maintains that the above-cited patent should be reinstated because the delay in paying the 3.5 year maintenance fee was unavoidable because of the gross negligence and deception of the registered agent, Bruce Troxell of the now defunct Troxell Law Office, charged with paying the maintenance fees.

The statement of Taiwan Intellectual Property Agent (TIPA) are noted; however, petitioner must clarify the relationship between patentee and TIPA. 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. If there was an arrangement or understanding between patentee and TIPA for tracking and paying the maintenance fees, petitioner should so state and provide documentary evidence and or statements that support the assertion. 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.

LEXIS 21478, 8-9 (1994), *aff'd on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in Rydeen, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute." Id. at 3 (citing Rydeen v. Quigg, 748 F. Supp. at 906, Texaco v. Short, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See Rydeen v. Quigg, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

[6]See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

[7] 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. Ray v. Lehman, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In Ray v. Lehman, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent." We disagree, The PTOs' regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." Id.

At the outset, it is important to note that the fact that petitioner is alleging that Mr. Troxell's gross negligence and deception is the cause of the unavoidable delay in paying the maintenance fees does not relieve petitioner of the burden of establishing that petitioner treated the maintenance of the patent as its most important business. Given the facts at hand, one of the specific questions to be asked is whether, in treating the patent as their most important business, patentee acted reasonably and prudently in never checking the status of the patent. More specifically, patentees' reliance upon an attorney does not provide patentees with an absolute defense, but rather shifts the focus to whether the attorney acted reasonably and prudently. Patentee still must demonstrate that during all relevant periods patentee treated the maintenance of the patent as its most important business.

The statement of Vincent Lin of the Taiwan Intellectual Property Agent Co., Ltd. (TIPA) indicates that TIPA was responsible for remitting the funds for the maintenance fee payments to Troxell Law Firm. Mr. Lin further indicates that, in the normal course, Mr. Troxell acknowledged receipt of the funds and instructions via a return facsimile. The documentation provided evidences that payment for the 3.5-year maintenance fee was sent to Mr. Troxell on November 2, 2006, which Troxell Law Office responded by sending a return facsimile to TIPA of the coverletter that accompanied the maintenance fee funds affixed with a Troxell Law Office date stamp. That date stamp indicates that the maintenance fee funds were received by the Troxell Law Office on November 2, 2006. Presumably, this was sufficient notice for TIPA. Petitioner does not establish that Mr. Troxell confirmed to patentee or TIPA that the maintenance fee was actually paid with the USPTO. The record does not demonstrate, and petitioner does not establish, that any further steps were taken to be verify payment of the maintenance after remitting the funds to Troxell Law Office or that the patent was in good standing until some time in 2010.

The facts, as set forth by petitioner, seem to suggest that there were no specific steps in place to ensure maintenance of the patent after the funds were remitted to Troxell Law Firm. Rather, the facts seem to demonstrate that the arrangement between TIPA in its role as patentee's agent and Troxell Law Office was largely informal. This conclusion is based on the fact that: 1) petitioner has provided no formal written agreement between TIPA and Troxell Law Firm for tracking and payment of the maintenance fee payment 2) Mr. Troxell was apparently only required to provide a date stamped return facsimile of his receipt of the maintenance fee funds with no express responsibility to remit the monies to the USPTO by a certain date and provide said notice to TIPA or the patentee. While there is, on its face, no problem with an informal arrangement to track and pay maintenance fees, petitioner is at a severe disadvantage when circumstances such as those set forth in the petition arise and petitioner must establish that entire delay in paying the maintenance fee was unavoidable and petitioner treated the maintenance of the patent as its most important business.

It is noted that the arrangement between TIPA and Troxell Law Office, relative to the maintenance of the patent, was arguably informal and casual with TIPA seemingly relying on minimal acknowledgement from Mr. Troxell that the maintenance fee monies were received and requiring no notification that the maintenance fee was actually paid. Arguably, if the maintenance of this patent was being treated as patentee's most important business, patentee and/or TIPA may have established an express agreement by which the arrangement between TIPA and Mr. Troxell would be governed setting forth the process of tracking the maintenance fees, for remitting funds for payment of the maintenance fees, and confirmation that the maintenance fees were paid. In fact, the failure of Mr. Troxell to abide by such an agreement may have lent further credence to petitioner's argument that Mr. Troxell was grossly negligent and deceptive in maintaining the patent and that his alleged gross negligence was the sole reason for the delay in paying the maintenance fees. Rather, the informal nature of the arrangement between TIPA and Mr. Troxell that persisted at least from 2006, until roughly 2010 undermines the assertion that petitioner

treated the maintenance of the patent as its most important business and that Mr.Troxell negligence or deceptive practices were the sole reason for the entire delay in paying the maintenance fees.

The assertion that patentee treated the maintenance of the patent as his most important business is further undermined by the fact that patentee did not ascertain the status of the patent until 2010—more than four years after the patent expired. The patentee is entitled to make inquiries into the status of its patent at any point with, or without, the assistance of a patent agent. Arguably, the exercise of diligence and prudence relative to the maintenance of the patent would require that the patentee routinely check into the status of the patent. In so doing, the patentee may have discovered that the failings of TIPA and/or Mr. Troxell and the fact that the patent was expired much sooner or may have been able to prevent the patent from expiring at all.

It is noted that a successful petition under 37 CFR 1.378(b) requires that petitioner establish that the entire period of delay—from the due date for the maintenance fee to the filing of a grantable petition under 37 CFR 1378(b)—was unavoidable. Even assuming the gross negligence of Mr. Troxell was one reason for the delay in paying the maintenance fee, petitioner has not satisfactorily demonstrated that it persisted as the sole reason for the alleged unavoidable delay in paying the maintenance fees for the entire relevant period from April 25, 2006, until 2010.

It is noted that the courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client, but "...if the client freely chooses counsel, it should be bound by counsel's actions[8]. The record indicates that petitioner, through TIPA—patentee's presumed chosen agaent-- freely chose to rely on Mr. Troxell, entrusting Mr. Troxell with his most important business even in the absence of any formal agreement, or understanding of Mr. Troxell's procedures for ensuring the maintenance of the patent, or any efforts to check in on the status of the patent himself. Petitioner's reliance on Mr. Troxell was clearly misplaced and unfortunate, but petitioner has not established that Mr. Troxell's alleged betrayal of petitioner's trust and alleged dereliction of his duties under his arrangement with TIPA is the sole reason for the entire period of the alleged unavoidable delay in paying the maintenance fees nor has petitioner established that petitioner acted reasonably and prudently in relying on the assurances of TIPA or Mr. Troxell without further investigation. Neither has petitioner established that petitioner treated the maintenance of the patent as its most important business during the entire relevant period.

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.[9] The petition for reconsideration should be titled "Petition

[8] Inryco.Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).
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.

[9] 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.

for Reconsideration under 37 CFR 1.378(e)." 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(s) and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington, DC 20231. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1460
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
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

Yen Jung Sung
30-47 37 St.
Astoria NY 11103

In re Patent No. 6,572,402	:	
Issued: June 3, 2003	:	REQUEST FOR INFORMATION
Application No.: 09/952,969	:	
Filing Date: September 17, 2001	:	
Attorney Docket No.	:	

This is in response to the "Petition for Reconsideration under 37 CFR 1.378(e)", filed April 17, 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 April 17, 2011. No additional fees are due.

The patent issued June 3, 2003. The 3.5 year maintenance fee could have been paid from June 3, 2006, through December 3, 2006, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from December 4, 2006, to June 3, 2007. Petitioner did not do so. Accordingly, the patent expired at midnight on June 3, 2007. It is noted that the 7.5-year maintenance fee was due by midnight June 2, 2011.

Petitioner is required to address the following points:

- As evidenced by a letter dated November 2, 2006, it is noted that the Taiwan Intellectual Property Agent Co., Ltd (TIPA) sent monies for payment of the 3.5-year maintenance fee to the Troxell Law Office. It is also noted that the petitioner has provided a copy of a letter dated March 1, 2006, from the Troxell Law Office referencing U.S. Patent No. 6,443,770, in which Mr. Troxell acknowledges receiving the instruction to pay the 3.5-year maintenance fee in U.S. Patent No. 6,443,770 and indicates that his office paid the 3.5-year maintenance fee in that matter. Petitioner has not provided such evidence for the subject patent U.S. Patent No. 6,572,402. Thus, petitioner is required to provide evidence from the Troxell Law Office evidencing that Mr. Troxell intentionally misled the patent owners as to status of U.S. Patent No. 6,572,402.

The response to this Request for Information should be accompanied by payment of 7.5-year maintenance fee.

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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APPLE/FENWICK
SILICON VALLEY CENTER
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MOUNTAIN VIEW CA 94041

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In re Application of
Creemer
Application No. 09/953,241
Filed/Deposited: 14 September, 2001
Attorney Docket No. 18602-06339
(P2040USR1)

DECISION ON PETITION

This is a decision on the petition filed on 18 February, 2011, pursuant to 37 C.F.R. §1.47.

NOTE:

Petitioner recites conversations before the averred Email transmittal of documents to the non-signing inventor—however, there is no express acknowledgement by the on-signing inventor following transmittal demonstrating receipt and readability of the message and attached documents.

Petitioner will find it beneficial to move stepwise through the requirements of the regulations at 37 C.F.R. §1.47(b), to wit: the petition and fee; proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage. (*See* MPEP §409.03, and §409.03(a)).

For the Office to accept transmission by Email of any document (e.g., transmittal description, claims, abstract, drawing(s))\, written acknowledgment of receipt and readability is required.

The petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. §1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

A grantable petition pursuant to 37 C.F.R. §1.47(b) requires: the petition and fee; proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage.

Petitioner's attentions are directed to the regulations at 37 C.F.R. §1.47(b) and to the guidance provided in the Commentary in the Manual of Patent Examining Procedure, including that at MPEP §409.03, et seq.

Petitioners always are reminded that for transmission by Email of any document (e.g., transmittal description, claims, abstract, drawing(s)) to be accepted by the Office, written acknowledgment of receipt and readability will be required.

Deficiencies must be resolved on any renewed petition.

BACKGROUND

The record indicates:

The instant application was filed on 14 September, 2001, with a fully executed reissue oath/declaration, however, thereafter, Petitioner avers, he learned on 16 November, 2010, that the Examiner would require a new re-issue oath/declaration, and the Examiner confirmed that requirement in the Interview Summary mailed on 19 November, 2010.

On 18 February, 2011, Petitioner Fengling Li (Reg. No. 62,962) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.47, with separate oath/declaration executed by any expressly authorized representative of the averred assignee (Fengling Li, with statement of authority in the petition) in the stead of the non-signing inventor David Z. Creemer (Mr. Creemer); and a declaration in support of the petition by Daniel R. Brownstone (Reg. No. 46,581). The problem that appears to be present is that the transmittal of the entire application (description, claims, abstract, drawings)

to the non-signing inventor was by Email and the record contains no express statement/confirmation by Mr. Creemer of receipt and readability of the message and attachments as required by the Office where Email transmittal is utilized. Petitioner also is reminded to review the requirements herein, as provided by the guidance in the Commentary at MPEP §409.03, and §409.03(a)), including the required transmittal of the entire application (description, claims, abstract, drawings) to the non-signing sole inventor, a showing of proprietary interest and statement of irreparable damage. (*See* MPEP §409.03, and §409.03(a)). Thus, the failure to satisfy the requirements as outlined above, including the transmission of the entire application—description, claims, abstract and drawings—to the non-signing inventor, precludes grant of the petition at this time.

Petitioner **must** resolve these issues on any renewed petition and should review the Rules of Practice and the guidance in the Commentary in the MPEP to ensure satisfaction of all requirements herein, as set forth at the outset of this decision.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant petition under 37 C.F.R. §1.47(b) is **dismissed**.

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

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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

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. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of
Creemer
Application No. 09/953,241
Filed/Deposited: 14 September, 2001
Attorney Docket No. 18602-06339
(P2040USR1)

DECISION ON PETITION

This is a decision on the petition filed on 29 June, 2011, pursuant to 37 C.F.R. §1.47.

The petition under 37 C.F.R. §1.47(b) is **GRANTED**.

A grantable petition pursuant to 37 C.F.R. §1.47(b) requires: the petition and fee; proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage.

Petitioners' attentions always are directed to the regulations at 37 C.F.R. §1.47(b) and to the guidance provided in the Commentary in the Manual of Patent Examining Procedure, including that at MPEP §409.03, et seq.

Petitioners always are reminded that for transmission by Email of any document (e.g., transmittal description, claims, abstract, drawing(s)) to be accepted by the Office, written acknowledgment of receipt and readability will be required.

BACKGROUND

The record indicates:

The instant application was filed on 14 September, 2001, with a fully executed reissue oath/declaration, however, thereafter, Petitioner avers, he learned on 16 November, 2010, that the Examiner would require a new re-issue oath/declaration, and the Examiner confirmed that requirement in the Interview Summary mailed on 19 November, 2010.

On 18 February, 2011, Petitioner Fengling Li (Reg. No. 62,962) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.47, with separate oath/declaration executed by any expressly authorized representative of the averred assignee (Fengling Li, with statement of authority in the petition) in the stead of the non-signing inventor David Z. Creemer (Mr. Creemer); and a declaration in support of the petition by Daniel R. Brownstone (Reg. No. 46,581). The problem that appeared to be present was that the transmittal of the entire application (description, claims, abstract, drawings) to the non-signing inventor was by Email and the record contained no express statement/confirmation by Mr. Creemer of receipt and readability of the message and attachments as required by the Office where Email transmittal is utilized. Petitioner was reminded to review the requirements herein, as provided by the guidance in the Commentary at MPEP §409.03, and §409.03(a)), including the required transmittal of the entire application (description, claims, abstract, drawings) to the non-signing sole inventor, a showing of proprietary interest and statement of irreparable damage. The petition was dismissed on 29 March, 2011.

On 29 June, 2011, Petitioner readvanced the petition Fengling Li (Reg. No. 62,962) filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.47, with a reissue oath/declaration executed by the expressly authorized representative of the averred assignee (Fengling Li, with statement of authority in the petition) and including the required transmittal of the entire application (description, claims, abstract, drawings) to the non-signing sole inventor, a showing of proprietary interest and statement of irreparable damage. (*See* MPEP §409.03, and §409.03(a)). Thus Petitioner sought to satisfy the requirements of a petition pursuant to 37 C.F.R. §1.47 with an oath and an express statement of authority to sign to accompany the oath/declaration executed by any expressly authorized representative of the averred assignee, along with a showing of diligence in the transmittal of the entire application (description, claims, abstract, drawings) to the non-signing inventor and proof that the non-signing inventor had failed—thus a constructive refusal—to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §115 and §116; a statement of the last known address of the non-signing inventor; proof of proprietary interest: and proof of irreparable damage.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts

of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The application and papers have been reviewed and found in compliance with 37 C.F.R. §1.47(b). This application is hereby accorded Rule 1.47(b) status.

CONCLUSION

The instant petition under 37 C.F.R. §1.47(b) is **granted**.

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Alexandria, VA 22313-1450
www.uspto.gov

DAVID Z CREEMER
4065 CAMPANA DRIVE
PALO ALTO, CA 94306

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Application of
Creemer
Application No. 09/953,241
Filed/Deposited: 14 September, 2001
Attorney Docket No. 18602-06339
(P2040USR1)

COMMUNICATION

Dear David Z. Creemer:

You are named as an inventor (or the legal representative thereof) in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47 (Code of Federal Regulations), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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/your action(s) or inactions. Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record
APPLE/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

[1] The regulations at 37 C.F.R. §1.2 provide:
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Yen Jung Sung
30-47 37 St.
Astoria NY 11103

In re Patent No. 6,443,770 :
Issued: September 3, 2002 : ON PETITION
Application No.: 09/953,299 :
Filing Date: September 17, 2001 :
Attorney Docket No. TROXELL LAW OFFICE PLLC

This is in response to the "Response to Request for Information" filed November 23, 2010, and the petition under 37 CFR 1.378(b) filed March 26, 2010.

The petition is **dismissed**.

The patent issued September 3, 2002. The 3.5 year maintenance fee could have been paid from September 3, 2005, through March 3, 2006, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from March 4, 2006, to September 3, 2006. Petitioner did not do so. Accordingly, the patent expired at midnight on September 3, 2006. It is also noted that 7.5 year maintenance fee was due on, or before, September 3, 2010.

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).

Petitioner must establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[1]

[1]The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard. 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee . . . at any time . . .if the delay is shown *to the satisfaction of the Commissioner* to have been unavoidable." (emphasis added).

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. His interpretation of those provisions is entitled to considerable deference." Rydeen v. Quigg, 748 F. Supp. 900, 904, 16 U.S.P.Q2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion Rule 36), 937 F.2d 623 (Fed Cir. 1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d agencys' interpretation of a statute it administers is entitle to deference"); see also Chevron U.S.A. Inc, v. Natural Resources Defense Counsil, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute s silent or

However, "[t]he question of whether an applicant's delay in prosecuting an application was unavoidable [will]be decided on a case-by-case basis, taking all of the facts and circumstances into account."[2] Nonawarness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP, or the Official Gazette notices does not constitute unavoidable delay.[3] The statute requires a "showing" by petitioner, therefore; petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Petitioner is responsible for possessing knowledge of the need to pay maintenance fees and the due dates for such fees, Petitioner is responsible for instituting a reliable docketing system to remind him or her when maintenance fees become due.

Petitioner is responsible for having knowledge of the need to pay maintenance fees and knowing when the fees are due.[4] The Office has no duty to notify a patentee of the requirement to pay maintenance fees or to notify patentee when a maintenance fee is due.[5] Even if the Office were required to provide notice to applicant of the existence of maintenance fee requirements, such notice is provided by the patent itself.[6]

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ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute."))

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F. 3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1781 (Fed Cir. 1995) (Citing In re patent No. 4,409, 763, 7 U.S.P.Q.2d BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P. Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat 31, 32-33 (1887)).

[2]Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[3]See Smith v. Mossinghoff, 671 F. 2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable " delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (plaintiffs, through their counsel's action, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

[4]Nonawarness of PTO statutes, PTO rules, the MPEP, or Official Gazette notices, which state maintenance fee amounts and dates they are due does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. *BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs, through their counsel's actions, or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Petitioner must act as a reasonable and prudent person in relation to his most important business. Upon obtaining the patent, a reasonable and prudent person, in relation to his most important business, would become familiar with the legal requirements of that business, in this case, the requirement to pay maintenance fees. In addition, a reasonable and prudent individual would read the patent itself and thereby become aware of the need to pay maintenance fees and the fact that such fee amounts are sometimes changed by law or regulation.

[5]Congress expressly conditioned §§ 133 and 151 [of the United States Code] on a specific type of notice, while no such notice requirements are written into § 41(c) . . . [T]he Commissioner's no timely-notice interpretation." Ray v. Comer, 1994 U.S. Dist.

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

By the instant petition and Response to Request for Information, petitioner maintains that the above-cited patent should be reinstated because the delay in paying the 3.5 year maintenance fee was unavoidable because of the gross negligence and deception of the registered agent, Bruce Troxell of the now defunct Troxell Law Office, charged with paying the maintenance fees.

The statement of Taiwan Intellectual Property Agent (TIPA) is noted; however, petitioner must clarify the relationship between patentee and TIPA. 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. If there was an arrangement or understanding between patentee and TIPA for tracking and paying the maintenance fees, petitioner should so state and provide documentary evidence and or statements that support the assertion. 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.

LEXIS 21478, 8-9 (1994), *aff'd on other grounds* Ray v. Lehman, 55 F.3d 606, 34 USPQ2d 1786 (Fed. Cir. 1995) (Citing Rydeen v. Quigg, 748 F. Supp. 900, 905 (1990), Chevron U.S.A. Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 81 L. ed. 2d 694, 104 S. Ct. 2778 (1984)). "The Court concludes as it did in Rydeen, that as a constitutional matter, 'plaintiff was not entitled to any notice beyond publication of the statute." Id. at 3 (citing Rydeen v. Quigg, 748 F. Supp. at 906, Texaco v. Short, 454 U.S. 516, 536, 70 L. Ed. 2d 738, 102 S. Ct. 781 (1982)).

The Patent Office, as a courtesy tries to send maintenance fee reminders and notices of patent expiration to the address of record. However, the failure to receive the reminder notice, and the lack of knowledge of the requirement to pay the maintenance fee, will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. See MPEP 2575, 2540, 2590. Petitioner does not have a right to a personalized notice that this patent will expire if a certain maintenance fee is not paid, as the publication of the statute was sufficient notice. See Rydeen v. Quigg, 748 F. Supp. 900, 907 (1990). the ultimate responsibility for keeping track of maintenance fee states lies with the patentee, not the USPTO. Since the mailing of Notices by the Office is completely discretionary and not a requirement imposed by Congress, accepting an argument that failure to receive a Notice is unavoidable delay would result in all delays being unavoidable should the Office discontinue the policy. All petitions could allege non-receipt of the reminder, and therefore all petitions could be granted. This was clearly not the intent of Congress in the creation of the unavoidable standard.

[6]See Ray v. Lehman, 55 F.3d 606, 610; 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). The Letters of Patent contain a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While it is unclear as to who was and is in actual possession of the patent, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.

[7] 37 CFR 1.378(b)(3) precludes acceptance of a late maintenance fee for a patent unless a petitioner can demonstrate that steps were in place to monitor the maintenance fee. The federal Circuit has specifically upheld the validity of this regulation. Ray v. Lehman, 55 F.3d 606, 609; 34 USPQ2d (BNA) 1786 (Fed.Cir. 1995). In Ray v. Lehman, petitioner claimed that he had not known of the existence of the maintenance fees and therefore had no steps in place to pay such fees. The petitioner therefore argues that the PTO's regulation, 37 CFR 1.37(b)(3), supra, arguing that it 'creates a burden that goes well beyond what is reasonably prudent." We disagree, The PTOs' regulation merely sets forth how one is to prove that he was reasonably prudent, i.e., by showing what steps he took to ensure that the maintenance fee would be timely paid, and the steps taken in seeking to reinstate the patent. We do not see these requirements additional to proving unavoidable delay, but as the very elements of unavoidable delay." Id.

At the outset, it is important to note that the fact that petitioner is alleging that Mr. Troxell's gross negligence and deception is the cause of the unavoidable delay in paying the maintenance fees does not relieve petitioner of the burden of establishing that petitioner treated the maintenance of the patent as its most important business. Given the facts at hand, one of the specific questions to be asked is whether, in treating the patent as their most important business, patentee acted reasonably and prudently in never checking the status of the patent. More specifically, patentees' reliance upon an attorney does not provide patentees with an absolute defense, but rather shifts the focus to whether the attorney acted reasonably and prudently. Patentee still must demonstrate that during all relevant periods patentee treated the maintenance of the patent as its most important business. The statement of Vincent Lin of the Taiwan Intellectual Property Agent Co., Ltd. (TIPA) indicates that TIPA was responsible for remitting the funds for the maintenance fee payments to Troxell Law Firm. Mr. Lin further indicates that, in the normal course, Mr. Troxell acknowledged receipt of the funds and instructions via a return facsimile. The documentation provided evidences that payment for the 3.5-year maintenance fee was sent to Mr. Troxell on February 15, 2006, which Troxell Law Office responded by sending a letter dated March 1, 2006, indicating that the 3.5-year maintenance fee was paid as instructed and providing a copy of a maintenance fee transmittal form that was filed on March 1, 2006, authorizing the 3.5-year maintenance fee to be charged to a deposit account. Office records do not indicate that the fee was ever charged. It was requested that petitioner provide any information petitioner may have as to what happened after this point, i.e., did the USPTO charge the fee, were there insufficient funds in the deposit account. It is noted that petitioner provided no explanation for what happened after Mr. Troxell sent the letter dated March 1, 2006. The record does not demonstrate, and petitioner does not establish, that any further steps were taken to be verify payment of the maintenance after remitting the funds to Troxell Law Office or that the patent was in good standing until some time in 2010.

The facts, as set forth by petitioner, seem to suggest that there were no specific steps in place to ensure maintenance of the patent after the funds were remitted to Troxell Law Firm. Rather, the facts seem to demonstrate that the arrangement between TIPA in its role as patentee's agent and Troxell Law Office was largely informal. This conclusion is based on the fact that: 1) petitioner has provided no formal written agreement between TIPA and Troxell Law Firm for tracking and payment of the maintenance fee paymen,t 2) Mr. Troxell was apparently only required to provide a cover letter indicating that the funds were transferred to the USPTO with no further verification from TIPA or patentee that the maintenance fee had actually been paid. While there is, on its face, no problem with an informal arrangement to track and pay maintenance fees, petitioner is at a severe disadvantage when circumstances such as those set forth in the petition arise and petitioner must establish that entire delay in paying the maintenance fee was unavoidable and petitioner treated the maintenance of the patent as its most important business.

It is noted that the arrangement between TIPA and Troxell Law Office, relative to the maintenance of the patent, was arguably informal and casual with TIPA seemingly relying on minimal acknowledgement from Mr. Troxell that the maintenance fee monies were received and requiring no notification that the maintenance fee was actually paid. Arguably, if the maintenance of this patent was being treated as patentee's most important business, patentee and/or TIPA may have established an express agreement by which the arrangement between TIPA and Mr. Troxell would be governed setting forth the process of tracking the maintenance fees, for remitting funds for payment of the maintenance fees, and confirmation that the maintenance fees were paid. In fact, the failure of Mr. Troxell to abide by such an agreement may have lent further credence to petitioner's argument that Mr. Troxell was grossly negligent and deceptive in maintaining the patent and that his alleged gross negligence was the sole reason for the delay in paying the maintenance fees. Rather, the informal nature of the arrangement between TIPA and Mr. Troxell that persisted at least from 2006, until roughly 2010 undermines the assertion that petitioner

treated the maintenance of the patent as its most important business and that Mr.Troxell negligence or deceptive practices were the sole reason for the entire delay in paying the maintenance fees.

The assertion that patentee treated the maintenance of the patent as his most important business is further undermined by the fact that patentee did not ascertain the status of the patent until 2010—more than four years after the patent expired. The patentee is entitled to make inquiries into the status of its patent at any point with, or without, the assistance of a patent agent. Arguably, the exercise of diligence and prudence relative to the maintenance of the patent would require that the patentee routinely check into the status of the patent. In so doing, the patentee may have discovered that the failings of TIPA and/or Mr. Troxell and the fact that the patent was expired much sooner or may have been able to prevent the patent from expiring at all.

It is noted that a successful petition under 37 CFR 1.378(b) requires that petitioner establish that the entire period of delay—from the due date for the maintenance fee to the filing of a grantable petition under 37 CFR 1378(b)—was unavoidable. Even assuming the gross negligence of Mr. Troxell was one reason for the delay in paying the maintenance fee, petitioner has not satisfactorily demonstrated that it persisted as the sole reason for the alleged unavoidable delay in paying the maintenance fees for the entire relevant period from April 25, 2006, until 2010.

It is noted that the courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client, but "...if the client freely chooses counsel, it should be bound by counsel's actions[8]. The record indicates that petitioner, through TIPA—patentee's presumed chosen agent-- freely chose to rely on Mr. Troxell, entrusting Mr. Troxell with his most important business even in the absence of any formal agreement, or understanding of Mr. Troxell's procedures for ensuring the maintenance of the patent, or any efforts to check in on the status of the patent himself. Petitioner's reliance on Mr. Troxell was clearly misplaced and unfortunate, but petitioner has not established that Mr. Troxell's alleged betrayal of petitioner's trust and alleged dereliction of his duties under his arrangement with TIPA is the sole reason for the entire period of the alleged unavoidable delay in paying the maintenance fees nor has petitioner established that petitioner acted reasonably and prudently in relying on the assurances of TIPA or Mr. Troxell without further investigation. Neither has petitioner established that petitioner treated the maintenance of the patent as its most important business during the entire relevant period.

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.[9] The petition for reconsideration should be titled "Petition

[8] Inryco.Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).
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.

[9] 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.

for Reconsideration under 37 CFR 1.378(e)." 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(s) and surcharge which accompanied the petition.

Petitioner may request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Refund Section, Commissioner for Patents, Washington, DC 20231. A copy of this decision should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1460
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
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

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NOV 21 2011

OFFICE OF PETITIONS

Yen Jung Sung
30-47 37 St.
Astoria NY 11103

In re Patent No. 6,443,770
Issued: September 3, 2002
Application No.: 09/953,299
Filing Date: September 17, 2001
Attorney Docket No.

: REQUEST FOR INFORMATION

This is a request for information in response to the petition under 37 CFR 1.378(b), filed April 17, 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" and must include monies for the 7.5-year maintenance fee.

The patent issued September 3, 2002. The 3.5 year maintenance fee could have been paid from September 3, 2005, through March 3, 2006, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from March 4, 2006, to September 3, 2006. Petitioner did not do so. Accordingly, the patent expired at midnight on September 3, 2006. It is also noted that 7.5 year maintenance fee was due on, or before, September 3, 2010.

Petitioner is required to remit the payment for the 7.5 year maintenance fee, which is $1,425.00 for a small entity or $2,850.00 for a large entity. The petition under 37 CFR 1.378(b) cannot be granted until such time as monies for the 7.5-year maintenance fee are paid to the subject patent.[1]

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

[1] It is noted that the undersigned spoke with Ms. Yen Jung Sung on November 9, 2011, and informed Ms. Sung that the 7.5-year maintenance fee needed to be paid before the petition under 37 CFR 1.378(b) could be granted. Ms. Sung informed the undersigned that the 7.5-year maintenance fee would be paid forthwith. To date, no monies for the 7.5-year maintenance fee are of record.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6544635	2003-04-08	09954045	2001-09-18	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-22
Name	Marvin A. Motsenbocker	Registration Number	36614

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6544635
Issue Date: April 8,2003
Application No. 09954045
Filed: September 18,2001
Attorney Docket No. 21994/0030

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 7.5 year 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MATTHEW J. BOOTH & ASSOCIATES, PLLC
C/O CPA GLOBAL
P.O. BOX 52050
900 SECOND AVENUE SOUTH, SUITE 1560
MINNEAPOLIS MN 55402

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,124,376	:	
Issued: October 17, 2006	:	
Application No. 09/954,122	:	ON PETITION
Filed: September 17, 2001	:	
Attorney Docket No. 63479-0108	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 20, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 18, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office.

Further, the Power of Attorney and Change of Correspondence Address submitted with the instant petition is hereby not accepted. Petitioner is required to complete a proper

PTO/SB/81 form (form enclosed) since a Power of Attorney currently exists in the above-identified patent.

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
Petitions Examiner
Office of Petitions

Enclosure: PTO/SB/81 form

cc: David Lewis
1250 Aviation Avenue, Suite 200B
San Jose, CA 95110

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TRASKBRITT, P.C./ ALLIANT TECH SYSTEMS
P.O. BOX 2550
SALT LAKE CITY UT 84110

MAILED
OCT 13 2010
OFFICE OF PETITIONS

In re Application of: :
COVER, et al. :
Application No. 09/954,126 : ON PETITION
Filed: September 17, 2001 :
Attorney Docket No. 2507-5889US(21825-US) :

This is a decision on the Communication Requesting Withdrawal of Power of Attorney and Sensitive Personal Information from the Record, filed October 4, 2010, which has been treated as a Petition To Expunge under 37 CFR 1.59(b). The requisite $200.00 petition fee has been charged to Deposit Account No. 20-1469 as authorized in the Petition.

The petition is **GRANTED.**

Petitioner urges that information sensitive in nature was included on a previously submitted Power of Attorney. It is agreed that under the circumstances of this case, petitioner has shown to the satisfaction of the Director that expungement is appropriate.

The file entry of the subject document has been closed. As such, the document is no longer available to the public for inspection, which is the Image File Wrapper (IFW) equivalent to removal of a paper document from a paper file wrapper.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Patent No. 6,725,491	:	
Issued: April 27, 2004	:	
Application No. 09/954,156	:	NOTICE
Filed: September 18, 2001	:	
Attorney Docket Number:	:	
HUNG3018/EM/7224		

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 1, 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 request 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 request, 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: A. Justin Poplin
Lathrop & Gage LLP
2345 Grand Boulevard, Suite 2200
Kansas City, MO 64108

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MAILED
MAY 26 2011
OFFICE OF PETITIONS

GREENBERG TRAURIG, LLP (DC/ORL)
2101 L Street, N.W.
Suite 1000
Washington DC 20037

In re Application of	:	
Eltchaninoff et al.	:	DECISION REFUSING STATUS
Application No. 09/954,206	:	UNDER 37 CFR 1.47(a)
Filed: September 18, 2001	:	
Attorney Docket No. 40599.010300	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 28, 2002.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a). Also, this decision does not stay any other period for reply that may be running against the application. 37 CFR 1.181(f).

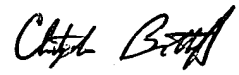
A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor. The petition lacks items (3) and (4).

The petition lacks the required fee under 37 CFR 1.17(g), which is currently $200.00. Also, the last known address of the non-signing inventor was not given.

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[1]

Telephone inquiries should be directed to the undersigned at (571) 272-6692.



Christopher Bottorff
Petitions Examiner
Office of Petitions

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

MAILED
JAN 07 2011
OFFICE OF PETITIONS

In re Patent No. **6,934,869** :
Issue Date: August 23, 2005 :
Application No. 09/954,453 : NOTICE UNDER 37 CFR 1.28(C)
Filed: September 12, 2001 :
Attorney Docket No. **15436.928.11** :

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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

/Monica A. Graves/
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

MAILED
NOV 08 2010
OFFICE OF PETITIONS

Devicor Medical Products, Inc.
C/O Frost Brown Todd LLC
2200 PNC Center
201 East Fifth Street
Cincinnati OH 45202

In re Patent No. 7,625,397 :
Issue Date: December 1, 2009 :
Application No. 09/954,646 : DECISION ON PETITION
Filed: September 18, 2001 :
Attorney Docket No. DEV0777US.0578375 :

This is a decision on the Petition to Expunge, filed July 27, 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that papers filed on November 17, 2009, be expunged from the record. Petitioner states this paper was filed unintentionally.

In regard to the requirements for a petition to expunge information filed unintentionally, MPEP 724.05(II) states in part:

II. INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;
(B) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
(C) the information has not otherwise been made public;
(D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;

(E) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
(F) the petition fee as set forth in 37 CFR 1.17(g) is included.

The condition set forth in item (A) cannot be met since the patent has issued.
The petition does not have a statement in regard to item (D).
For these reasons the petition cannot be granted.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-24-05

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 6849748

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

/Janet L. Andres/ — **SPE**

1625 — **Art Unit**

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6667851	2003-12-23	09955950	2001-09-20	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6667851
Issue Date: December 23,2003
Application No. 09955950
Filed: September 20,2001
Attorney Docket No. 21994/0029

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year 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 23,2012 .
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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7120144	2006-10-10	09956394	2001-09-18	U018248-8

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	◯ 3 ½ year	(2551)
◯ 7 ½ year	(1552)	◯ 7 ½ year	(2552)
◯ 11 ½ year	(1553)	◯ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Jay A. Bondell/	Date (YYYY-MM-DD)	2010-11-29
Name	Jay A. Bondell	Registration Number	28188

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7120144
Issue Date: October 10,2006
Application No. 09956394
Filed: September 18,2001
Attorney Docket No. iPOL-0014

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 30,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 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.go

MICHAEL TAVELLA
2051 BRIGADLER DR.
ANCHORAGE AK 99507

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 6,499,921 :
Issue Date: December 31, 2002 :
Application No. 09/957,595 : ON PETITION
Filed: September 19, 2001 :
For: SPOT WELDER TIP SHARPENING AND :
DRESSING TOOL :

This is a decision on the petition under 37 CFR 1.378(c), filed July 29, 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 December 31, 2010 for failure to pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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 mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

RICHARD FRASHER
P.O. BOX 1623
SEWARD AK 99664

5

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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GREENBERG TRAURIG LLP (LA)
c/o: Greenberg Traurig LLP Chicago Office
77 West Wacker Drive, Suite 3100
INTELLECTUAL PROPERTY DEPARTMENT
Chicago IL 60601

MAILED
MAR 27 2012
OFFICE OF PETITIONS

In re Patent No. 6,990,660	:	
Issue Date: January 24, 2006	:	
Application No. 09/957,673	:	DECISION ON PETITION
Filed: September 20, 2001	:	
Attorney Docket No. 077732-012401	:	

This is a decision on the Petition Under 37 C.F.R. §1.182 and Request For Certificate Of Correction (37 C.F.R. §1.322), filed October 13, 2011, requesting, in effect, that the First Page of the Ex Parte Reexamination issued in the subject patent be corrected, via issuance of a Certificate of Correction Under 37 CFR §1.322, to identify the name of assignee at the time the Ex Parte Reexamination Certificate was issued. A completed Certificate of Correction Form was previously submitted.

The petition under 37 CFR §1.182 is **DISMISSED**.

The request under 37 CFR §1.322(a) is **DISMISSED**.

Petitioner, in effect, requests issuance of a Certificate of Correction that changes the identification of "Orix Venture Finance LLC" as the assignee on the Title Page of the patent to --Lumension Security, Inc.--. The Request states that the mistake incurred through the fault of the United States Patent and Trademark Office (USPTO).

A review of the USPTO records reveals that on August 3, 2010, an Inter Partes Reexamination Certificate was mailed which shows --Lumension Security, Inc-- as the assignee. This indicated assignee is the same assignee Petitioner is now requesting to be added to the Ex Parte Reexamination Certificate. In view of the August 3, 2010 Inter Partes Reexamination Certificate, no correction is deemed necessary to be made in this patent. Accordingly, the present petition and request are moot and therefore, dismissed.

Telephone inquiries related this communication should be directed to the undersigned at (571)272-3213.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : December 9, 2009

TO SPE OF : ART UNIT 2164

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/957736 Patent no. 7315863

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

Magdalene Talley

Certificates of Correction Branch
571-272-0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes do not apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: Do not change the scope of the claims.

C. Rones — SPE

2164 — Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRW Nov-10

Paper No. 6

LIFESAFER, INC
1360 ROSECRANS STREET, SUITE H
SAN DIEGO CA 92106

MAILED

NOV 23 2010

OFFICE OF PETITIONS

In re Patent No. 6413134	:	DECISION
Issue Date: 07/02/2002	:	DISMISSING PETITION
Application Number: 09/957877	:	
Filing Date: 09/20/2001	:	
Attorney Docket Number:	:	
LIF.001.P	:	

This is a decision on the paper filed on October 15, 2010, styled as a petition under 37 CFR 1.378(b).

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 patent issued on July 2, 2002. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from July 2, 2009 through January 4, 2010, or, with a surcharge, during the period from January 5, 2010, through July 2, 2010. The patent expired at midnight on July 2, 2010, for failure to timely pay the first maintenance fee.

At the outset, the petition form is not properly signed. 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.

The petition has been signed by only one of the three joint inventors, and therefore has not been signed on behalf of the owners of the entire interest. Specifically, the patent lists Michael Wahl, Paul K. Driscoll, and John B. Dority as joint inventors, as joint inventors, but only joint inventor Driscoll

has signed the petition. If the petition is being signed on behalf of an assignee, the Statement Under 37 CFR 3.73(b) must be completed and returned, with any renewed petition. A copy of this form is enclosed for petitioners' reference.

Petitioners state, in pertinent part:

> LIFE-SAVER, INC has been reduced to a skeleton crew due to the economic conditions in the markets in which we sell our technology, serious illness to both officers and directors and their families and USCG regulatory issues with both our testing and manufacturing leaving us without the time and manpower to handle effectively all of our business duties.
>
> 3 years ago our patent agent had to withdraw from helping us due to a serious family illness. He passed along his notes to our VP Operations who had to leave us suddenly after he experienced a heart attack two years ago.
>
> The markets in which we well primarily have seen revenue drops from 40-75% during the last two years placing us in a severe financial situation that caused us to move to smaller offices and place files in storage.
>
> In February this year our USCG approved assembler informed us that they would be leaving California for Texas due to the business climate here. Very shortly thereafter our product failed one of the prescribed tests needed for USCG approval. It took 6 months to resolve this issue and also find a new assembler. The new assembler had to be trained and then inspect in order to be approved as a certified facility to build our product.
>
> The 7.5 year maintenance fee came due at the end of this timeframe.

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 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).
The petition lacks the showing required by 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".[1] 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."[2] This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."[3] 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.[4] 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.[5] 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.[6] In view of In re Patent No. 4,409,763,[7] this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

35 U.S.C. § 41(c)(1) does not require an affirmative finding that the delay was avoidable, but only an explanation as to why the petitioner has failed to carry his or her burden to establish that the delay was unavoidable.[8] 35 U.S.C. § 133 does not require the Director to affirmatively find that the delay was

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[1] 35 U.S.C. § 41(c)(1).
[2] Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, L.Ed.2d 209 (1995).
[3] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).
[4] In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).
[5] 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).
[6] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).
[7] 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).
[8] See Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

avoidable, but only to explain why the applicant's petition was unavailing). Petitioner is reminded that it is the patentee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.[9]

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.[10] 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 second maintenance fee for this patent.[11]

While the Office is mindful of the difficulties encountered by petitioners as described in the petition, a showing of unavoidable delay requires, as stated above, that petitioners provide a documented showing that they exercised the level of care of a reasonably prudent person acting with respect to their most important business. Petitioners have provided insufficient evidence that they exercised such a level of care. Rather, the showing of record is that petitioners were preoccupied with other matters. Petitioners' preoccupation with other matters which took precedence over the above-identified maintenance fee does not constitute unavoidable delay.[12]

In this regard, a showing of diligence in matters before the USPTO is essential to support a finding of unavoidable delay herein.[13] There is no "sliding scale" based upon the priority

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[9] See 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); Ray v. Lehman, supra.

[10] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[11] Id.

[12] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[13] 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 counsel).

given to this maintaining this patent in force, or more diligently seeking reinstatement, *vis-a-vis* attending to other matters by petitioners; the issue is solely whether the maintenance, or reinstatement, of the patent at issue was actually conducted with the care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business. The delay was not unavoidable, because had petitioners exercised the due care and diligence of a reasonably prudent person, petitioners would have been able to act to pay the fee or seek reinstatement in a timely fashion. The record fails to adequately evidence that petitioners exercised the due care and diligence observed by prudent and careful persons, in relation to their most important business, which is necessary to establish unavoidable delay.[14]

Any renewed petition must be accompanied by evidence supporting a conclusion that the failure to timely pay the maintenance fee was unavoidable.

Petitioners are cautioned to avoid submitting personal information in a patent application that may contribute to identity theft. If personal information such as social security numbers, bank account numbers, or credit card numbers are included in documents submitted to the USPTO (other than a check or credit card authorization form PTO-2038 submitted for payment purposes), petitioners should consider redacting such personal information from the documents before submitting them to the USPTO. This type of personal information is never required by the USPTO to support a petition or an application. Petitioner is advised that any information submitted in an application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, information from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

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.

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[14] Pratt, supra.

ALTERNATIVE VENUE

Petitioners 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.

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).

37 CFR 1.378(d) states that any petition under this section must be signed by an attorney or agent registered to practice before the U.S. Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

Petitioner should complete the attached Statement Under 37 CFR 3.73(b) and return it with a properly signed petition under 37 CFR 1.378(c).

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/66
PTO/SB/96

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378 (c))

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent No. _____ Application Number _____

Issue Date _____ Filing Date _____

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number (or reissue patent number, if a reissue) and (2) the application number of the actual U.S. application (or reissue application) leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

Also complete the following information, if applicable

The above – identified patent

☐ Is a reissue of original Patent No. _____ original issue date _____

original application number _____

original filing date _____

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____

filed on _____

CERTIFICATE OF MAILING (37 CFR 1.89(a))

I hereby certify that this paper (*along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class main in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

_____ Date

_____ Signature

_____ Typed or Printed Name of Person Signing Certificate

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

1. SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

3. MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☐ $ _____	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) of $ _____ (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of a maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ _____

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

☐ Please charge Deposit Account No. _____ the sum of $ _____

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition deficiency to Deposit Account No. _____

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number

7. OVERPAYMENT

As to any overpayment made please

☐ Credit to Deposit Account No. _____.

OR

☐ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. STATEMENT

The delay in payment of the maintenance fee to this patent was unintentional.

9. PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

Signature(s) of Petitioner(s)	Date
Typed or printed name(s)	Registration Number, if applicable
Telephone Number	

Address

Address

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

ENCLOSURES

☐ Maintenance Fee Payment

☐ Surcharge under 37 CFR 1.20(i)(2) (fee for filing the maintenance fee petition)

☐ _____

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

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.

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which 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
DIW Mar-11

Paper No.

LIFESAFER, INC
1360 ROSECRANS STREET, SUITE H
SAN DIEGO CA 92106

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Patent No. 6,413,134	:	
Issue Date: 07/02/2002	:	
Application Number: 09/957,877	:	ON PETITION
Filing Date: 09/20/2001	:	
Attorney Docket Number:	:	
LIF.001.P	:	

This is a decision on the petition under 37 CFR 1.378(c), filed February 2, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 2, 2010, for failure to timely pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

MAR 13 2012

PCT LEGAL ADMINISTRATION

Leydig, Voit & Mayer, Ltd. (Frankfurt office)
Two Prudential Plaza, Suite 4900
180 North Stetson Avenue
Chicago IL 60601-6731

In re Application of FISCHER et al. Application No.: 09/958,443 PCT No.: PCT/DE00/01173 Int. Filing Date: 06 April 2000 Priority Date: 06 April 1999 Attorney Docket No.: 810759 For: METHOD OF PRODUCING THIN, POORLY SOLUBLE COATINGS	DECISION on PETITION UNDER 37 CFR 1.182

This is a decision applicant's "PETITION UNDER 37 CFR 1.182" to correct inventor's name filed on 02 February 2012 in the United States Patent and Trademark Office (USPTO).

To correct the inventor's name, a petition under 37 CFR 1.182 is required. See MPEP §605.04(c). A review of the application file reveals that the given name of the applicant as listed on the published international application and the executed declaration is "HANS-JUERGEN MUFFLER".

Applicant now submits a petition under 37 CFR 1.182 including a statement by the inventor "HANS-JUERGEN BAECKER" indicating that his name changed due to his marriage. Applicant authorized the payment of the requisite $400 petition fee from the deposit account. The petition under 37 CFR 1.182 to change the respective inventor's name to HANS-JUERGEN BAECKER is granted.

For the above reasons, the petition under 37 CFR 1.182 to change the respective inventor's name to HANS-JUERGEN BAECKER is **GRANTED**.

/Cynthia M. Kratz/
Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571)272-3286
Facsimile: (571)273-0459

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7238672	2007-07-03	09958672	2002-02-22	

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			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2011-10-28
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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7238672
Issue Date: July 3,2007
Application No. 09958672
Filed: February 22,2002
Attorney Docket No. 05394.0014

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Mar-11

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of	:	
Fisk et al.	:	DECISION ON PETITION TO
Application Number: 09/958,881	:	WITHDRAW HOLDING OF
Filing Date: 03/19/2002	:	ABANDONMENT
Attorney Docket Number: MJS-	:	
4616-2	:	

This is a decision on the "REQUEST TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. 1.181," filed on December 23, 2010, which is treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on December 20, 2010, stating that the application was abandoned for failure to timely file a reply to the final Office action mailed on December 7, 2009.

A review of the record reveals that on December 7, 2009, a final Office action was mailed, setting a three (3)-month shortened statutory period for reply.

On June 7, 2010, a Notice of Appeal and a three (3)-month extension of time under 37 CFR 1.136(a) were filed.

On January, 7, 2011, a Request for Continued Examination (RCE) and submission under 37 CFR 1.114 were filed, along with a five (5)-month extension of time under 37 CFR 1.136(a).

As the notice of appeal filed on June 7, 2010, with a three (3)-month extension of time, was timely filed within the extendable period for reply to the final Office action mailed on December 7, 2009, there is no abandonment in fact.

The Office apologizes for any inconvenience to petitioners.

The holding of abandonment is withdrawn. The Notice of Abandonment is vacated.

The application is referred to Technology Center Art Unit 2421 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **2/26/09**

TO SPE OF : ART UNIT **1638 (1600)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09/959,137** Patent No.: **7,285,705**
Attn: Georgia Helmer

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
South Tower - 9A22
Palm Location 7580

Ernest C. White, LIE,
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

/Kathleen Kerr Bragdon/
SPE

Acting SPE 1638
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/11/2010

TO SPE OF : ART UNIT 3679 Stodola Daniel (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/959584 Patent No.: 7717477

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 – 9D40-A
Palm Location 7580

Certificates of Correction Branch
703-756-1571 _____

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.
- XXXX **Denied** — State the reasons for denial below.

Comments: Denied. Alleged mistake is not of a clerical or typographical nature, or of minor character & there has been no showing that such mistake occurred in good faith. The reply filed 8/9/2006 clearly states that such is supported by at least page 5, lines 8-12, of the specification (i.e., "the cup may be attached to the rotatable arm and be journalled against the fixed part"). Thus, claim 6 was clearly intended to recite that both the cup & the arm were connected to constitute a "moveable part" as the claim currently recites. Therefore, the requested deletion would materially affect the scope of the claim & cannot properly be considered to be of minor character. Since the desired change materially affects the scope of the claim, it would appear that the proper vehicle for correction would be via reissue.

/Daniel P. Stodola/ — **SPE**

3679 — **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

10/6/2010

Patent No. :7717477
Inventor(s) :Mats Thulin
Issued :5/18/2010
Title :SWIVEL
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals claim 6 is request to be deleted and would affect the scope of the claim & cannot be considered to be of minor character. The proper vehicle for correction would be via reissue. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

ERIC VENABLE
VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

HR

UNITED STATES 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
NOV 22 2010
OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of	:	
Matsui et al.	:	
Application No. 09/959,853	:	DECISION ON PETITION
Filed: January 8, 2002	:	
Attorney Docket No. 2565-0240 P	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 31, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before March 4, 2010, as required by the Notice of Allowance and Fee(s) Due mailed December 4, 2009. Accordingly, the date of abandonment of this application is March 5, 2010. A Notice of Abandonment was mailed March 23, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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 patent 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, petitioner has submitted an unnecessary $300.00 publication fee. This fee will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

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

COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

MAILED

MAR 29 2012

OFFICE OF PETITIONS

In re Patent No. 7,319,479 :
Issue Date: January 15, 2008 :
Application No. 09/960,218 : ON PETITION
Filed: September 21, 2001 :
Attorney Docket No.: BRCK-001/01US 303646-2002:

This is a decision in response to the communication filed January 27, 2012, which is being treated as a petition under 37 CFR 1.378(c) to accept an unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is DISMISSED.

It is initially pointed out that the petition cannot be accepted because the petition is not signed by an attorney or agent registered to practice before the U. S. Patent and Trademark Office, the patentee, or the assignee or other party in interest as established by 37 CFR 3.73(b) [1]. See 37 CFR 1.378(d).

Further, 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).

A proper statement of unintentional delay has not been provided.

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. 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**

[1] 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

37 CFR 1.17(f). The petition for reconsideration must also 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.

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 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[2]

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $565 maintenance fee and the $1,640 surcharge fee 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[2] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

cc: PAUL W. WILLIAMS
CFO & SECRETARY
BRICKSTREAM CORPORATION
2 SUN COURT NW
SUITE 400
NORCROSS, GA 30092

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6644333	2003-11-11	09960440	2001-09-21	32-10133

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/C. John Brannon/	Date (YYYY-MM-DD)	2011-11-15
Name	C. John Brannon	Registration Number	44557

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6644333
Issue Date: November 11,2003
Application No. 09960440
Filed: September 21,2001
Attorney Docket No. 13226-410

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 15,2011 ,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 November 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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SITRICK & SITRICK
8340 N LINCOLN AVENUE SUITE 201
SKOKIE, IL 60077

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,139,277	:	
Issue Date: November 21, 2006	:	
Application No. 09/960,532	:	ON PETITION
Filed: September 21, 2001	:	
Attorney Docket No. SYN 1778	:	

This is a decision in response to a petition filed June 6, 2011, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on November 22, 2010, for failure to pay the 3 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 the undersigned at (571) 272-6059.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
MAY 09 2011
OFFICE OF PETITIONS

Barnes & Thornburg LLP
11 South Meridian Street
Indianapolis, IN 46204

In re Patent of Robert J. Smith	:	
Patent No. 6,568,566	:	
Issue Date: May 27, 2003	:	Letter
Application No. 09/960,562	:	
Filing Date: September 21, 2001	:	
Attorney Docket No. 5723-208215	:	

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed March 3, 2011.

The deficiency payment of $1,240 is hereby accepted.

The change of status to large entity has been entered and made of record.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent in this case. In addition, the file does not indicate a change of address has been submitted even though the address given on the petition differs from the address of record. Although this decision is being mailed to the address on the petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUL 05 2011
OFFICE OF PETITIONS

SITRICK & SITRICK
8340 N LINCOLN AVENUE SUITE 201
SKOKIE, IL 60077

In re Patent No. 7,110,669	:	
Issue Date: September 19, 2006	:	
Application No. 09/960,668	:	ON PETITION
Filed: September 21, 2001	:	
Attorney Docket No. SYN 1780	:	

This is a decision in response to a petition filed June 6, 2011, under 37 CFR 1.378(c), to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 20, 2010, for failure to pay the 3 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 the undersigned at (571) 272-6059.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7315839	2008-01-01	09/961,026	2001-09-20	5374/002

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			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Tiberiu Weisz/	Date (YYYY-MM-DD)	2012-02-23
Name	Tiberiu Weisz	Registration Number	29876

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7315839
Issue Date: January 1,2008
Application No. 09961026
Filed: September 20,2001
Attorney Docket No. 5374/002

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 23,2012 . 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,763	09/24/2001	Bobby J. Chacko	G07.002	6720

67338 7590 04/08/2011
BUCKLEY, MASCHOFF & TALWALKAR, LLC
GENERAL ELECTRIC COMPANY
50 LOCUST AVENUE
NEW CANAAN, CT 06840

EXAMINER
SEREBOFF, NEAL

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
04/08/2011	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
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APR - 8 2011

BUCKLEY, MASCHOFF & TALWALKAR, LLC
GENERAL ELECTRIC COMPANY
50 LOCUST AVENUE
NEW CANAAN, CT 06840

In re Application of: Mark Steinberg	:	DECISION ON PETITION
Application No. 09/961,763	:	UNDER 37 C.F.R. 1.181
Filed: September 24, 2001	:	
For: SYSTEM AND METHODS TO	:	
FACILITATE AN ACQUISITION OF	:	
INFORMATION ASSOCIATED WITH	:	
A REQUESTED FINANCIAL ACCOUNT	:	

This is in response to applicant's petition filed on August 3, 2009 to request that various grounds of rejection in the examiner's answer mailed on June 2, 2009 be designated as new grounds of rejection.

The petition is **DENIED**.

The record shows that a non-final Office action was mailed on February 26, 2008. Applicant filed a response on May 27, 2008 to amend claim 32 and cancel claims 5-6, 21-23 and 25-27. A final Office action was mailed on August 19, 2008 in which claims 1-4, 7-18, 20, 24 and 28-31 were rejected as unpatentable over Broadbent et al. in view of Schein et al., claim 19 was rejected over Broadbent et al. and Schein et al. and further in view of the admitted prior art, and claim 32 was rejected over Broadbent et al. and Schein et al. and further in view of Norris. Applicant filed an appeal brief on January 21, 2009 which was deemed non-compliant as noted in the notice of non-compliant appeal brief dated February 25, 2009. A corrected appeal brief was filed on March 24, 2009. An examiner's answer was mailed on June 2, 2009. A reply brief was submitted on August 3, 2009 along with the instant petition.

Applicant argues that various grounds of rejection set forth in the examiner's answer dated June 2, 2009 should be designated as new grounds of rejection. Applicant's arguments are directed to two main issues. The first of these is by providing information that was lacking from the rejection set forth in the final Office action dated August 19, 2008 (thereby causing the rejection set forth in the final Office action to be improper), the examiner's answer has introduced a new grounds of rejection. The second issue is that by "clarifying" statements in the final Office action dated August 19, 2008, and the use of the language "unfortunately, not clarified" in the examiner's answer, they are evidence that the examiner has not properly considered applicant's

arguments and the totality of the record; therefore further provide evidence that the examiner's answer has introduced a new ground of rejection.

With respect to the first issue that by providing information that was lacking in the final Office action thereby the examiner's answer has introduced new grounds of rejection, applicant's argument is not persuasive. The examiner has not changed the grounds for any the rejections in the final rejection dated August 19, 2008 or the examiner's answer dated June 2, 2009. The passages cited by applicant were merely responses to arguments that the examiner made in rebuttal to arguments presented in applicant's appeal brief, not any actual new grounds of rejection. In fact, there were no new grounds of rejection applied. The examiner merely gave further examples of the association between credit card flyers in the same office or holding a credit card in a pocket of the operator to respond to applicant's arguments. The examiner's response should not be construed as new rejections.

With respect to the second issue of the "clarifying" statement's in the final Office action dated August 19, 2008, and the use of the language "unfortunately, not clarified" in the examiner's answer, applicant's arguments are not persuasive. The examiner is asserting that applicant's arguments merely amount to general allegation without specifically pointing out how the language in the claims patentably distinguishes them from the references. Applicant has again misconstrued the examiner's response as evidence that examiner has not properly considered applicant's arguments. Contrary to applicant's arguments, the examiner addressed all arguments presented in the appeal brief. Furthermore, applicant not only had an opportunity to respond to the argument, he used his opportunity to respond and actually did respond by filing a reply brief that responded to the examiner's arguments.

Based on the facts presented above, the petition is denied.

Any questions concerning this decision should be directed to Supervisory Robert Morgan at (571) 272-6773.

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

Rwm/lm: 3/31/11

LM

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6607533	2003-08-19	09962461	2001-09-25	10154-065US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Lawrence A. Aaronson/	Date (YYYY-MM-DD)	2011-11-11
Name	Lawrence A. Aaronson	Registration Number	38369

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6607533
Issue Date: August 19,2003
Application No. 09962461
Filed: September 25,2001
Attorney Docket No. N879

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 11,2011 ,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 November 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

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STEPHEN T. SCHERRER
MCDERMOTT, WILL & EMERY
31ST FLOOR
227 WEST MONROE STREET
CHICAGO IL 60606

MAILED

JUL 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,543,116	:	
Issued: April 8, 2003	:	
Application No. 09/962,572	:	ON PETITION
Filed: September 25, 2001	:	
Attorney Docket No. 47440-048000	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 27, 2011, which will be treated as a petition under 37 CFR 1.378(c) 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 item (1) 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 Oliver W.R. Champagne, Jr. 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.

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.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Oliver W. R. Champagne, Jr.
c/o General Electric Railcar Services Corporation
161 N. Clark Street, 7th Floor
Chicago, IL 60601

Attachment: PTO/SB/96

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

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

STEPHEN T. SCHERRER
MCDERMOTT, WILL & EMERY
31ST FLOOR
227 WEST MONROE STREET
CHICAGO IL 60606

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Patent No. 6,543,116 :
Issued: April 8, 2003 :
Application No. 09/962,572 : ON PETITION
Filed: September 25, 2001 :
Attorney Docket No. 47440-048000 :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed September 16, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 9, 2011 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay in paying the maintenance fee was in fact unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay in paying the maintenance fee was intentional, petitioner must so notify the Office. 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 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: Mark A. Conklin
General Electric Global Patent Corporation
Two Corporate Drive, Suite 648
Shelton, CT 06484

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENTON R. MULLINS
STOUT, UXA, BUYAN & MULLINS, LLP
4 VENTURE, SUITE 300
IRVINE CA 92618

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Patent No. 6,477,923	:	
Issue Date: November 12, 2002	:	
Application No. 09/962,752	:	DECISION ON PETITION
Filed: September 25, 2001	:	
Attorney Docket No. MA9103CON2	:	

This is a decision on the petition under 37 CFR 1.378(c), filed October 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 12, 2010 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office. Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) is submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petition

Cc: **STEPHEN J. FOSS, ESQ.**
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6425500	2002-07-30	09/962,763	2001-09-25	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Brian G. McNally/	Date (YYYY-MM-DD)	2011-11-03
Name	Brian G. McNally		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6425500
Issue Date: July 30,2002
Application No. 09962763
Filed: September 25,2001
Attorney Docket No. MCB-10003/15

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 2,2011 ,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 November 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,602,585	2003-08-05	09/963,239	2001-09-26	SSJR 05634-P0005A

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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 M. Oberdick/	Date (YYYY-MM-DD)	2012-01-24
Name	Todd M. Oberdick	Registration Number	44268

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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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. 6602585
Issue Date: August 5,2003
Application No. 09963239
Filed: September 26,2001
Attorney Docket No. P/12-862

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 24,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year 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 24,2012 . 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
MAR 30 2011
OFFICE OF PETITIONS

Jeramie J. Keys
Withers & Keys, LLC
P.O. Box 71355
Marietta, Georgia 30007-1355

In re Application of	:	
Joshua W. KITE et al.	:	DECISION GRANTING PETITION
Application No. 09/964,451	:	UNDER 37 CFR 1.137(b)
Filed: September 28, 2001	:	
Atty. Docket No.: BS01-167	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 5, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed February 28, 2007, which set a non-extendable period for reply of two (2) months. Accordingly, the application became abandoned on April 29, 2007, and a Notice of Abandonment was mailed June 6, 2007.

A grantable petition under 37 CFR1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a replacement drawing (FIG 16) to the Notice, (2) a petition fee of $1500, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Office of Data Management for further action on the application.

Ramesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/8/2011

TO SPE OF : ART UNIT 3676 Bompat Thomas (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/964841 Patent No.: 7836481

CofC mailroom date: 6/20/2011

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: _____

_____

Certificates of Correction Branch

571-272-8680 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [X] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

/Pankaj Kumar/ 2424

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KRIEGER INTELLECTUAL PROPERTY, INC.
PO BOX 872438
VANCOUVER WA 98687-2438

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Application of
Andrew M. Fertlitsch et al.
Application No. 09/964,985
Filed: September 26, 2001
Attorney Docket No. SLA1004

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b)[1], filed August 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on October 23, 2009, for failure to timely file a reply to the Final Office action mailed July 22, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed February 18, 2010. A petition filed March 18, 2010 was dismissed in a decision mailed June 7, 2010, because the examiner indicated that the amendment filed with the petition did not prima facie place the application in condition for allowance.

Petitioner has submitted a Request for Continued Examination (RCE) with a request that a previously filed amendment be considered as the submission required under 37 CFR 1.114.

This matter is being referred to Technology Center 2625 for processing of the RCE.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

UNITED STATES PATENT AND TRADEMARK OFFICE

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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Earney E. Stoutenburg et al :
Application No. 09/965,083 :
Filed: September 26, 2001 :
Attorney Docket No. 26466-0062

ON PETITION

This is a decision on the petition, filed August 16, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 21, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3691 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/24/11

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 09965187 Patent No.: 7680497

CofC mailroom date: 08/19/11

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: _____

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: _____

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

CURTIS KUNTZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2614

SPE Art Unit

PAGE 2/2 * RCVD AT 9/6/2011 9:26:21 AM [Eastern Daylight Time] * SVR:W-PTOFAX-003/3 * DNIS:2733421 * CSID:7033085359 * DURATION (mm-ss):00-58

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 21

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Patent No. 6,596,494 :
Issue Date: September 27, 2001 :
Application No. 09/965,346 : NOTICE
Filed: September 27, 2001 :
Attorney Docket No. 310307.90061

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

This file is being forwarded to the Files Repository.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Patent No. 6,596,494 :
Issue Date: September 27, 2001 :
Application No. 09/965,346 : NOTICE
Filed: September 27, 2001 :
Attorney Docket No. 310307.90061

This is a supplemental 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: Kendal M. Sheets
Authorized Representative
CPA Global
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314

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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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SIEMENS CORPORATION
ATTN : ELSA KELLER, LEGAL ADMINISTRATOR
INTELLECTUAL PROPERTY DEPARTMENT
186 WOOD AVENUE SOUTH
ISELIN NJ 08830

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,428,223	:	
Issue Date: September 23, 2008	:	
Application No. 09/965,375	:	ON PETITION
Filed: September 26, 2001	:	
Attorney Docket No. 2001P17780US	:	

This is a decision on the petition October 28, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: CHAD W. SWANTZ
SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPT.
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENE N.W.
WASHINGTON DC 20005

MAILED

DEC 29 2011

OFFICE OF PETITIONS

In re Application
Tarlochan Singh Dhadialla et al.
Application No. 09/965,697
Filed: September 27, 2001
Attorney Docket No.
2584.0270002/RWE/GER

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "Request For Reconsideration Of Patent Term Adjustment Determination Under 37 C.F.R. § 1.705(b)" filed December 21, 2011. Applicant requests that the determination of patent term adjustment be corrected from 0 days to 664 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is being considered in light of the recent court decision in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **GRANTED**.

The instant application for patent term adjustment was timely filed[2] on or before payment of the issue fee.

On September 21, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days.

Applicants argue that the reduction of twelve (12) days attributed to applicant for failing to respond within three months to the Notice to File Missing Parts mailed November 16, 2001 is inaccurate. Applicants argue that the response was incorrectly listed as having been filed on February 28, 2002 instead of the receipt date of March 11, 2002. Thus, instead of a 12 day reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 23 days should have been accorded.

A review of the record reveals that the initial determination of patent term adjustment of 0 days while correct, the Applicant Delay as determined by the Office is incorrect.

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[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

[2] PALM records indicate that the issue fee was paid on December 21, 2011.

Pursuant to 37 CFR 1.704(b), a period of reduction of 23 days should have been entered. 37 CFR 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this instance, a Notice to File Missing Parts was mailed November 16, 2001 and a reply was not received in the Office until March 11, 2002. Pursuant to § 1.704(b), the patent term adjustment should have been reduced by an additional 11 days for applicant delay from February 16, 2002 to March 11, 2002, the date of filing of the reply to the Notice.

Additionally, Applicants argue that the correct period of adjustment for the Supplemental Information Disclosure Statement filed October 23, 2008 is 37 days, not 0 days as determined by the office. On September 16, 2008 applicants filed a response to the Office action mailed May 28, 2008. Then on October 23, 2008, applicants filed a Supplemental Response. Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude. Applicants are correct therefore that the Patent Term Adjustment should be reduced by an additional 37 days of applicants' delay, in accordance with 37 CFR 1.704(c)(8) for the filing of a Supplemental Information Disclosure Statement on October 23, 2008.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 0 days and the Applicant Delay will be adjusted from 1048 days to 1096 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Revised PTA calculation

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 09965697 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 09965697

Application Filing Date	09/27/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	422
A Delays	422	PTO Manual Adjustment	-48
B Delays	0	Applicant Delay (APPL)	1048
C Delays	0	Total PTA (days)	0

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
187	12/28/2011		P028	Adjustment of PTA Calculation by PTO		37	0
186	12/28/2011		P028	Adjustment of PTA Calculation by PTO		23	0
185	12/28/2011		P028	Adjustment of PTA Calculation by PTO	12		0
173	09/21/2011		MN/=.	Mail Notice of Allowance			0
172	09/20/2011		OAR	Office Action Review			0
171	09/20/2011		OAR	Office Action Review			0
170	09/20/2011		OAR	Office Action Review			0
169	09/20/2011		IREV	Issue Revision Completed			0
168	09/20/2011		DVER	Document Verification			0
166	09/20/2011		N/=.	Notice of Allowance Data Verification Completed			0
165	09/20/2011		DOCK	Case Docketed to Examiner in GAU			0
163	09/19/2011		EX.A	Examiner's Amendment Communication			0
162	09/19/2011		CNTA	Allowability Notice			0
167	09/13/2011	07/15/2011	EIDS.	Electronic Information Disclosure Statement		60	156
164	09/13/2011		EXIE	Interview Summary - Examiner Initiated			0
161	09/13/2011		IDSC	Information Disclosure Statement considered			0
160	09/13/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
157	08/02/2011		FWDX	Date Forwarded to Examiner			0
159	07/19/2011		IDSC	Information Disclosure Statement considered			0
158	07/19/2011		IDSC	Information Disclosure Statement considered			0
154	07/19/2011		M844	Information Disclosure Statement (IDS) Filed			0
153	07/19/2011		RCAP	Reference capture on IDS			0
152	07/19/2011		M844	Information Disclosure Statement (IDS) Filed			0
151	07/19/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
150	07/19/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
156	07/15/2011	05/15/2011	A...	Response after Non-Final Action		61	146
155	07/15/2011		XT/G	Request for Extension of Time - Granted			0
149	06/03/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
148	06/01/2011		OAR	Office Action Review			0
147	06/01/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
146	02/15/2011		MCTNF	Mail Non-Final Rejection			0
145	02/14/2011		CTNF	Non-Final Rejection			0
144	01/10/2011		IDSC	Information Disclosure Statement considered			0
142	01/10/2011	11/19/2010	M844	Information Disclosure Statement (IDS) Filed		52	134
141	01/10/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
140	12/10/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
139	12/08/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
143	11/24/2010		IDSC	Information Disclosure Statement considered			0
138	11/24/2010		RCAP	Reference capture on IDS			0
137	11/24/2010		M844	Information Disclosure Statement (IDS) Filed			0
136	11/24/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
135	11/23/2010		FWDX	Date Forwarded to Examiner			0
134	11/19/2010	08/25/2010	A...	Response after Non-Final Action		86	132
133	11/19/2010		XT/G	Request for Extension of Time - Granted			0
132	05/25/2010		MCTNF	Mail Non-Final Rejection			0
131	05/24/2010		CTNF	Non-Final Rejection			0
129	04/21/2010		IDSC	Information Disclosure Statement considered			0
128	04/21/2010	03/23/2010	M844	Information Disclosure Statement (IDS) Filed		29	122
127	04/21/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
124	03/26/2010		FWDX	Date Forwarded to Examiner			0
121	03/26/2010		ABN9	Disposal for a RCE / CPA / R129			0
130	03/23/2010		IDSC	Information Disclosure Statement considered			0
126	03/23/2010		RCAP	Reference capture on IDS			0
125	03/23/2010		M844	Information Disclosure Statement (IDS) Filed			0
123	03/23/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0

122	03/23/2010	09/23/2009	RCEX	Request for Continued Examination (RCE)			117
120	03/23/2010		XT/G	Request for Extension of Time - Granted			0
119	03/23/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
118	03/23/2010		BRCE	Workflow - Request for RCE - Begin			0
117	09/23/2009		N/AP	Notice of Appeal Filed			0
116	09/15/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
115	09/14/2009		CTAV	Advisory Action (PTOL-303)			0
114	08/27/2009		FWDX	Date Forwarded to Examiner			0
113	08/24/2009		A.NE	Amendment after Final Rejection			0
112	07/10/2009		MSFR.	Mail Supplemental Final Rejection			0
111	07/09/2009		SFR.	Supplemental Final Rejection			0
110	06/23/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
109	06/22/2009		CTFR	Final Rejection			0
108	04/16/2009		FWDX	Date Forwarded to Examiner			0
107	04/07/2009	03/09/2009	A...	Response after Non-Final Action		29	103
106	04/07/2009		XT/G	Request for Extension of Time - Granted			0
105	12/19/2008		MM327	Mail Miscellaneous Communication to Applicant			0
104	12/18/2008		M327	Miscellaneous Communication to Applicant - No Action Count			0
103	12/09/2008		MCTNF	Mail Non-Final Rejection			0
102	12/06/2008		CTNF	Non-Final Rejection			0
99	10/23/2008		IDSC	Information Disclosure Statement considered			0
97	10/23/2008		LET.	Miscellaneous Incoming Letter			0
96	10/23/2008		M844	Information Disclosure Statement (IDS) Filed			0
93	10/23/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
100	10/15/2008		IDSC	Information Disclosure Statement considered			0
95	10/15/2008		RCAP	Reference capture on IDS			0
94	10/15/2008		M844	Information Disclosure Statement (IDS) Filed			0
92	10/15/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
98	10/02/2008		IDSC	Information Disclosure Statement considered			0
90	10/02/2008		M844	Information Disclosure Statement (IDS) Filed			0
89	10/02/2008		RCAP	Reference capture on IDS			0
88	10/02/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
87	09/25/2008		C.AD	Correspondence Address Change			0
86	09/25/2008		FWDX	Date Forwarded to Examiner			0
84	09/25/2008		FWDX	Date Forwarded to Examiner			0
82	09/25/2008		ABN9	Disposal for a RCE / CPA / R129			0
85	09/16/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
83	09/16/2008	08/28/2008	RCEX	Request for Continued Examination (RCE)		19	77
81	09/16/2008		XT/G	Request for Extension of Time - Granted			0
80	09/16/2008		BRCE	Workflow - Request for RCE - Begin			0
79	05/29/2008		ELC_RVW	Electronic Review			0
78	05/28/2008		EML_NTF	Email Notification			0
77	05/28/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
76	05/23/2008		CTFR	Final Rejection			0
72	04/29/2008		DOCK	Case Docketed to Examiner in GAU			0
66	03/21/2008		FWDX	Date Forwarded to Examiner			0
91	03/07/2008	02/11/2008	EIDS.	Electronic Information Disclosure Statement		25	65
75	03/07/2008		IDSC	Information Disclosure Statement considered			0
74	03/07/2008		IDSC	Information Disclosure Statement considered			0
73	03/07/2008		IDSC	Information Disclosure Statement considered			0
71	03/07/2008		EIDS.	Electronic Information Disclosure Statement			0
70	03/07/2008		EIDS.	Electronic Information Disclosure Statement			0
69	03/07/2008		EIDS.	Electronic Information Disclosure Statement			0
63	03/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
62	03/07/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
65	02/11/2008	11/09/2007	A...	Response after Non-Final Action		94	58
64	02/11/2008		XT/G	Request for Extension of Time - Granted			0
68	01/18/2008		BIG.	Statement Filed Indicating a Loss of Entitlement to Small Entity Status			0
61	12/05/2007		LET.	Miscellaneous Incoming Letter			0
60	09/27/2007		LET.	Miscellaneous Incoming Letter			0
59	09/25/2007		DOCK	Case Docketed to Examiner in GAU			0
58	08/09/2007	04/19/2007	MCTNF	Mail Non-Final Rejection	112		54
57	08/06/2007		CTNF	Non-Final Rejection			0
56	02/12/2007		C.AD	Correspondence Address Change			0
55	01/05/2007		FWDX	Date Forwarded to Examiner			0
54	12/19/2006		A.NE	Amendment after Final Rejection			0
53	11/13/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
52	11/08/2006		CTFR	Final Rejection			0
51	08/24/2006		FWDX	Date Forwarded to Examiner			0
50	08/18/2006	07/18/2006	A...	Response after Non-Final Action		31	48
49	08/18/2006		XT/G	Request for Extension of Time - Granted			0
48	04/18/2006		MCTNF	Mail Non-Final Rejection			0
47	04/17/2006		CTNF	Non-Final Rejection			0
44	01/26/2006		FWDX	Date Forwarded to Examiner			0
41	01/17/2006		CRFE	CRF Is Good Technically / Entered into Database			0
46	01/10/2006		IDSC	Information Disclosure Statement considered			0
45.7	01/10/2006	01/10/2006	M844	Information Disclosure Statement (IDS) Filed			43
45	01/10/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
43	01/10/2006	10/12/2005	A...	Response after Non-Final Action		90	40
42	01/10/2006		XT/G	Request for Extension of Time - Granted			0
40	07/12/2005		MCTNF	Mail Non-Final Rejection			0
39	07/11/2005		CTNF	Non-Final Rejection			0
38	06/28/2005		DOCK	Case Docketed to Examiner in GAU			0
37	04/13/2005		FWDX	Date Forwarded to Examiner			0
36	04/07/2005	09/15/2004	ELC.	Response to Election / Restriction Filed		204	31
35	04/07/2005		XT/G	Request for Extension of Time - Granted			0
33	01/07/2005		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
32	09/21/2004		FWDX	Date Forwarded to Examiner			0

31.1	09/15/2004		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
31	09/15/2004	03/02/2004	ELC.	Response to Election / Restriction Filed		197	27
30	09/15/2004		XT/G	Request for Extension of Time - Granted			0
29	05/14/2004		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
28	03/09/2004		FWDX	Date Forwarded to Examiner			0
27.1	03/02/2004		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
27	03/02/2004	01/03/2004	ELC.	Response to Election / Restriction Filed		59	23
26	03/02/2004		XT/G	Request for Extension of Time - Granted			0
25	03/02/2004		SMAL	Applicant Has Filed a Verified Statement of Small Entity Status in Compliance with 37 CFR 1.27			0
24	10/03/2003		C.ADB	Correspondence Address Change			0
23	10/03/2003	11/27/2002	MCTRS	Mail Restriction Requirement	310		0.5
22	10/01/2003		CTRS	Restriction/Election Requirement			0
21	09/09/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
20	09/08/2003		C.AD	Correspondence Address Change			0
19	08/19/2003		C.AD	Correspondence Address Change			0
18	08/25/2002		L130	Receipt of all Acknowledgement Letters			0
17.7	07/11/2002		M844	Information Disclosure Statement (IDS) Filed			0
17	07/11/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
16	05/21/2002		C.AD	Correspondence Address Change			0
14	05/09/2002		DOCK	Case Docketed to Examiner in GAU			0
13	04/01/2002		OIPE	Application Dispatched from OIPE			0
12	04/01/2002		COMP	Application Is Now Complete			0
15.7	03/19/2002		M844	Information Disclosure Statement (IDS) Filed			0
15	03/19/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
10	02/28/2002	02/16/2002	ADDFLFEE	Additional Application Filing Fees		12	6
9	02/28/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	02/08/2002		CRFE	CRF Is Good Technically / Entered into Database			0
7	02/05/2002		L197	Receipt of Acknowledgment Letter			0
6	11/16/2001		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	11/16/2001		C.AD	Correspondence Address Change			0
4	11/09/2001		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated			0
3	10/09/2001		SCAN	IFW Scan & PACR Auto Security Review			0
2	09/27/2001		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
1	09/27/2001		IEXX	Initial Exam Team nn			0
0.5	09/27/2001		EFILE	Filing date			0

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MOORE LANDREY
1609 SHOAL CREEK BLVD
SUITE 100
AUSTIN TX 78701

MAILED
MAR 1 2 2012
OFFICE OF PETITIONS

In re Patent No. 7,228,429	:	
Issue Date: June 5, 2007	:	
Application No. 09/966,130	:	ON PETITION
Filed: September 21, 2001	:	
Attorney Docket No. 07-0151	:	

This is a decision on the petition under 37 CFR 1.378(c), filed December 27, 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 6, 2011 for failure to pay the first 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

ROBERT C. CURFISS
19826 SUNDANCE DRIVE
HUMBLE, TX 77346

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6392926	2002-05-21	09966187	2001-09-28	20550-US-PA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Belinda Lee/	Date (YYYY-MM-DD)	2011-06-20
Name	Belinda Lee	Registration Number	46863

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6392926
Issue Date: May 21,2002
Application No. 09966187
Filed: September 28,2001
Attorney Docket No. U 013659-2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 20,2011 ,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 June 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.

9/9/10

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 12

DATE : 9/9/10

TO SPE OF : ART UNIT 3700 (3762)

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/966,233 Patent No.: 6,757,561

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

This request is denied because it is deleting previously allowed claims and adding previously cancelled claims.

SPE /Niketa Patel/ **ART UNIT** 3762

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 9/1/2011
Patent No.	: 6,757,561 B2
Serial No.	: 09/966,233
Inventor(s)	: Rubin et al.
Issue Date	: June 29, 2004
Title	: **METHODS AND APPARATUS FOR TREATING FIBRILLATION AND CREATING DEFIBRILLATION WAVEFORMS**
Doc./File No.	: **1080.311US2**

Re: Consideration for Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322.

Respecting the alleged error(s) in your request, after further examination and review, your request has been denied because it is deleting previously allowed claims and adding previously cancelled claims. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322. Therefore, no correction is in order here.

In view of the foregoing, your request in this matter is denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch accompanied by the appropriate fee of $100.00.

Ernest C. White, *LIE* (571) 572-3385
Mary F. Diggs, *Supervisor* (703) 756-1580
Decisions & Certificates of Correction Branch
ernest.white@uspto.gov

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

ECW

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MAR 26 2012
OFFICE OF PETITIONS

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 6,775,356	:	
Issue Date: August 10, 2004	:	
Application No. 09/967,291	:	ON PETITION
Filed: September 27, 2001	:	
For: REAL-TIME INCIDENT AND RESPONSE	:	
INFORMATION MESSAGING IN A SYSTEM	:	
FOR THE AUTOMATIC NOTIFICATION THAT	:	
AN EMERGENCY CALL HAS OCCURRED	:	
FROM A TELECOMMUNICATION	:	
DEVICE	:	

This is a decision on the "PETITION UNDER 37 CFR §1.378(e) TO REQUEST RECONSIDERATION OF A DECISION REFUSING TO ACCEPT A MAINTENANCE FEE," filed March 20, 2012, and Supplemental to the petition filed November 10, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/967,291	09/27/2001	Angelo Salvucci	B4851.0008

CONFIRMATION NO. 2173

POA ACCEPTANCE LETTER

757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

OC000000053266733

Date Mailed: 03/21/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2012.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kocreasy/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
09/967,291	09/27/2001	Angelo Salvucci	B4851.0008

CONFIRMATION NO. 2173

POWER OF ATTORNEY NOTICE

32172
DICKSTEIN SHAPIRO LLP
1633 Broadway
NEW YORK, NY 10019

OC000000053266465

Date Mailed: 03/21/2012

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/20/2012.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/kocreasy/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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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WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET, N.W.,
SUITE 400 EAST
WASHINGTON DC 20005-1503

MAILED

SEP 2 1 2010

OFFICE OF PETITIONS

In re Application	:
Jonathon Michael Blackburn et al.	:
Application No. 09/967,321	: DECISION ON APPLICATION
Filed: October 1, 2001	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 2010_0871	:

This is in response to the APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. § 1.705(b) filed February 16, 2010. Applicant requests that the determination of patent term adjustment be corrected from 0 days to 110 days.

The petition is **DISMISSED**.

On November 16, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On February 16, 2010, applicant timely submitted the instant application for patent term adjustment[1]. Applicant maintains an additional period of adjustment in the amount of 124 days should be entered for a total of 604 days under 37 C.F.R. § 1.703(a). Applicant argues that the Office mailed a first Office action on March 25, 2004 and then mailed a restriction requirement on July 27, 2004 which replaced the first action mailed March 25, 2004, in effect withdrawing the first action, and as such, applicants are requesting 124 more days, 1.704(a)(1).

Applicant states that the above-identified application is not subject to a terminal disclaimer.

Applicant's argument has been considered, but not found persuasive. An Office Action was mailed on March 25, 2004, thereafter, a second Office Action was mailed on July 27, 2004. The mailing of a second Office action withdrawing the first action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on March 25, 2004. Accordingly, entry of an additional period of adjustment of 124 days for Office delay in mailing a further notification is not warranted.

[1] PALM records indicate that the issue fee was also paid on February 16, 2010.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 50-0311.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

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.g

MAILED
MAR 12 2012
OFFICE OF PETITIONS

TRASKBRITT, P.C. /SHUFFLE MASTER
P.O BOX 2550
SALT LAKE CITY UT 84110

In re Application of	:	
Attila Grauzer et al	:	
Application No. 09/967,500	:	DECISION GRANTING PETITION
Filed: September 28, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10825US	:	
(PA0618.ap.US)	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 8, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 9, 2012 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3718 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6467485	2002-10-22	09967540	2001-10-01	13033.0025US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/ Marianne R. Timm-Schreiber /	Date (YYYY-MM-DD)	2011-11-22
Name	Marianne R. Timm-Schreiber	Registration Number	58085

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6467485
Issue Date: October 22,2002
Application No. 09967540
Filed: October 1,2001
Attorney Docket No. 1342

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 22,2011 ,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 November 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.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,560,122	2003-05-06	09/967,676	2001-09-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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	/jaye g. heybl/	Date (YYYY-MM-DD)	2012-03-27
Name	Jaye G. Heybl	Registration Number	42661

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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
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In re Patent No. 6560122
Issue Date: May 6,2003
Application No. 09967676
Filed: September 28,2001
Attorney Docket No. 011608-065

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 27,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 27,2012 .
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

DATE : 07/26/11

TO SPE OF : ART UNIT 1635

SUBJECT : Request for Certificate of Correction for Appl. No.: 09967726 Patent No.: 7569551

CofC mailroom date: 07/19/11

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.

X **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

/Heather Calamita/ 1635

SPE

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROCKWELL AUTOMATION, INC./BF
ATTENTION: Rosario C. Guadarrama, E-7F19
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

MAILED
OCT 21 2011
OFFICE OF PETITIONS

In re Application of :
Brian A. Batke et al. :
Application No. 09/967,742 : DECISION ON PETITION
Filed: September 28, 2001 :
Attorney Docket No. **01AB032** :
(1506.014

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2011, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Keith M. Baxter appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Keith M. Baxter desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Keith M. Baxter, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 11, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed July 8, 2011. Accordingly, the date of abandonment of this application is October 12, 2011.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,740 and the publication fee of $300, (2) the petition fee of $1,860; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: Keith M. Baxter
Boyle Fredrickson, SC
840 N. Plankinton Avenue
Milwaukee, WI 53203

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6834737	2004-12-28	09967817	2001-09-28	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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	/Steven R Bloxham/	Date (YYYY-MM-DD)	2010-10-28
Name	Steven R Bloxham		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6834737
Issue Date: December 28,2004
Application No. 09967817
Filed: September 28,2001
Attorney Docket No. A-69886/AJT

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7189802	2007-03-13	09967854	2001-09-28	KINE-001DIV2

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Pamela J. Sherwood, Reg. No. 36,677/	Date (YYYY-MM-DD)	2011-10-19
Name	Pamela J. Sherwood	Registration Number	36677

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 7189802
Issue Date: March 13,2007
Application No. 09967854
Filed: September 28,2001
Attorney Docket No. KINE001DIV2

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 19,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/968,076	10/01/2001	Lyle D. Finn	C30471CIP	6624

22145 7590 01/13/2011
KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE, CA 92612

EXAMINER
SCHOEPPEL, ROGER J

ART UNIT	PAPER NUMBER
3672	

MAIL DATE	DELIVERY MODE
01/13/2011	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JAN 13 2011

KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVENUE
SUITE 725
IRVINE, CA 92612

In re Patent No. 6,648,074	:	
Issue Date: November 18, 2003	:	**DECISION GRANTING**
Appl No.: 09/968,076	:	**PETITION**
Filed: October 01, 2001	:	*37 CFR 1.324*
For: GIBALED TABLE RISER SUPPORT SYSTEM	:	
	:	
	:	
	:	

This is a decision on the petition filed January 22, 2010 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672
Technology Center 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

DATE: January 11, 2011
TO: Certificates of Correction Branch
FROM: David J. Bagnell
SPE, Art Unit 3672
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,648,074 as specified on the attached Certificate.

David J. Bagnell, SPE
Art Unit 3672

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,648,074
Patented: November 18, 2003

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Lyle Finn	Sugar Land, TX
Himanshu Gupta	Houston, TX
Gerald W. Crotwell	Sugar Land, TX

David J. Bagnell
Supervisory Patent Examiner
Art Unit 3672

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY, LLP
ATTN: PATENT GROUP
777 – 6TH STREET, NW
SUITE 1100
WASHINGTON, DC 20001

MAILED
OCT 03 2011
OFFICE OF PETITIONS

In re Patent No. 7,003,985 :
Issue Date: February 28, 2006 :
Application No. 09/968,094 : NOTICE
Filed: October 1, 2001 :
Attorney Docket No. VYTR-003/00US310320-2009 :

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) 272-1642.

/AMW/
April M. Wise
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

MAILED
OCT 03 2011
OFFICE OF PETITIONS

COOLEY, LLP
ATTN: PATENT GROUP
777 – 6TH STREET, NW
SUITE 1100
WASHINGTON, DC 20001

In re Patent No. 6,436,198	:	
Issue Date: August 20, 2002	:	
Application No. 09/968,211	:	NOTICE
Filed: October 1, 2001	:	
Attorney Docket No. VYTR-002/00US310320-2008	:	

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).**

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Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

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Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
AUG 12 2011
OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Patent No. 7,103,086	:	
Issue Date: September 5, 2006	:	
Application No. 09/968,294	:	ON PETITION
Filed: October 1, 2001	:	
Attorney Docket No. 977.168US1	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 22, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent and a petition under 37 CFR 1.28, to change entity status of this application.

The petition is under 37 CFR 1.378(c) is **GRANTED**.

This patent expired on September 6, 2010, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The surcharge fee of $1,640 and the maintenance fee payment of $980 will be charged to petitioner's deposit account as authorized.

The 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.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6617527	2003-09-09	09969032	2001-10-03	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-23
Name	Marvin A. Motsenbocker	Registration Number	36614

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6617527
Issue Date: September 9,2003
Application No. 09969032
Filed: October 3,2001
Attorney Docket No. 21994/0031

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 23,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year 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 23,2012 .
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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET
34TH FLOOR
CHICAGO IL 60661

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,103,191 :
Issue Date: September 5, 2006 :
Application No. 09/969,064 :
Filed: October 2, 2001 :
Attorney Docket No. 10078US06 :

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 **NOT ACCEPTED**.

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.

As indicated above, the submission filed December 17, 2010, does not include a proper itemization. In this regard, the basic filing fee should be further itemized to include the basic filing, search and examination fees.

This itemization must be provided within one (1) month of the mail date of this decision to avoid the return of the deficiency payment. See 37 CFR 1.28 (c)(3). No extension of this 1-month time limit will be granted under 37 CFR 1.136(a).

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

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

CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET
34TH FLOOR
CHICAGO IL 60661

MAILED
MAY 02 2011
OFFICE OF PETITIONS

In re Patent No. 7,103,191	:	
Issue Date: September 5, 2006	:	
Application No. 09/969,064	:	NOTICE
Filed: October 2, 2001	:	
Attorney Docket No. 10078US06	:	

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 Diane Goodwyn at (571) 272-6735.

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

VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
MAY 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Greverie	:	
Application No. 09/969,584	:	ON PETITION
Filed: October 4, 2001	:	
Attorney Docket No. IPG-PT067	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 27, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 8, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) including the fee of $810 and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620 , and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. 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. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center AU 2617 for processing of the RCE and for appropriate action by the Examiner in the normal course of business in accordance with 37 CFR 1.114.

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: DANIEL J. SHERWINTER
8055 EAST TUFTS AVENUE
SUITE 450
DENVER, CO 80237

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/12/11

TO SPE OF : ART UNIT: 2193

09/970,006

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/979,006 Patent No. 7,853,933

CofC mailroom date 6/20/11

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: See col. 51, ln. 11, clm 8**

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: all changes are approved /I.K./

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,824,974	2004-11-30	09/970,087	2001-10-02	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

Under 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	/George Mathai/	Date (YYYY-MM-DD)	2010-11-25
Name	George Thomas Mathai		
Enter Reel and Frame Number		Remove	
Reel Number	012557	Frame Number	0094
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6824974
Issue Date: November 30,2004
Application No. 09970087
Filed: October 2,2001
Attorney Docket No. 24171-08815US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 26,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 26,2010 . 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
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ALAN H. THOMPSON
ASSISTANT LABORATORY COUNSEL
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808. L-703
LIVERMORE CA 94551

MAILED
FEB 09 2011
OFFICE OF PETITIONS

In re Application of	:	Paper No. 8
John F. Poco et al.	:	
Application No. 09/970,251	:	NOTICE
Patent No. 6,620,458	:	
Filed: September 27, 2001	:	
Attorney Docket No. **IL-10287**		

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WHYTE HIRSCHBOECK DUDEK S.C.
INTELLECTUAL PROPERTY DEPARTMENT
P.O. BOX 1379
MADISON WI 53701-1379

MAILED
FEB 28 2012
OFFICE OF PETITIONS

In re Patent No. 6,458,397 :
Issue Date: October 1, 2002 :
Application No. 09/970,326 : ON PETITION
Filed: October 3, 2001 :
Attorney Docket No. 870091.90181 :

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.

This patent expired on October 2, 2010 for failure to pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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). This petition lacks item (1) above.

The petition is not considered to contain a proper statement of unintentional delay since the petition is not signed by a proper party of interest. The 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 petition is signed by George Hall. 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.

The Power of Attorney accompanied by the statement under 37 CFR 1.373(b) submitted on November 2, 2011 does not authorize George Hall to act on behalf of the assignee. Therefore, the petition is considered to **not** contain a proper statement of unintentional delay.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By internet:	EFS-Web www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARDERE / JHTL
GARDERE WYNNE SEWELL, LLP
1601 ELM STREET
SUITE 3000
DALLAS TX 75201

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Merkley, et al.	:	
Application No. 09/970,389	:	DECISION
Filed/Deposited: 2 October, 2001	:	
Attorney Docket No. 129843-1022	:	

This is a decision on the petition filed on 14 March, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 27 May, 2010, with reply due absent extension of time on or before 27 August, 2010—the 27 November, 2010, request and fee for extension of time with request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an information disclosure statement (IDS) was improperly filed.

The application went abandoned by operation of law after midnight 27 November, 2010.

The Office mailed the Notice of Abandonment on 27 December, 2010.

On 14 March, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[3]))

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1741 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) 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

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[4] 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 attdance 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 8, 2009

TO SPE OF : ART UNIT 2857

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/970489 /6810358

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Magdalene Talley
Certificates of Correction Branch
703-308-9390 ext. 120

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☑ **Denied** — State the reasons for denial below.

Comments: The correction requested is not of a clerical nature, typographical nature or a mistake of minor character.

/Eliseo Ramos-Feliciano/
Supervisory Patent Examiner, Art Unit 2857

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : December 5, 2011
Serial No. : 09/970489
Patent No. : 6,810,358
Patent Issued :October 26, 2004
Inventor(s) :Fred D. Lang
Title :METHOD TO SYNCHRONIZE DATA WHEN USED FOR INPUT/LOSS PERFORMANCE MONITORING OF A POWER PLANT

Request for Certificate of Correction

Respecting the alleged error(s)noted in your request corrections, the correction requested is not of a clerical nature, typographical nature or a mistake of minor character.

Further consideration will be given upon receipt of a Request for Reconsideration, which should be directed to Decisions and Certificate of Correction Branch. Request for Reconsideration should be accompanied by additional support (e.g. copy of amendments, post card receipts.

In view of the foregoing, your request in this matter is hereby denied.

Magdalene Talley
For Mary Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(703)756-1540
FAX 571-270-9942

Fred D. Lang
12 San Marino Drive
San Rafael, CA 94901

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

THOMAS H. CLOSE
PATENT LEGAL STAFF
EASTMAN KODAK COMPANY
343 STATE STREET
ROCHESTER NY 14650-2201

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Application of	:	
MARSHALL, et al	:	
Application No. 09/970,581	:	ON PETITION
Filed: October 4, 2001	:	
Attorney Docket No. 82953THC	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 4, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is July 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $10, and the submission required by 37 CFR 1.114; (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay have been received.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required

by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

In the petition filed November 29, 2007, Petitioner states an extension of time was included with the Request for Continued Examination, however, no fee was charged because any extension of time would have been subsequent to the maximum extendable period for reply.

This application is being referred to Technology Center AU 3627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)
Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: 60469-053	Patent Number: 7670240
Filing Date (or 371(b) or (f) Date): 10/04/2001	Issue Date: 03/02/2010
First Named Inventor: John Pitts	
Title: ELEVATOR BELT ASSEMBLY WITH NOISE REDUCING GROOVE ARRANGEMENT	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /David J. Gaskey/	Date 8-26-2010
Name (Print/Typed) David J. Gaskey	Registration Number 37179

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an 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 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

Theodore W. Olds
CARLSON, GASKEY & OLDS, P.C.
Suite 350
400 West Maple Road
Birmingham, MI 48009

Mail Date: 09/08/2010

Applicant	: John Pitts	: DECISION ON REQUEST FOR
Patent Number	: 7670240	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/970,587	: OF WYETH
Filed	: 10/04/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6450070	2002-09-17	09971431	2001-10-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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	/John Andrew Winkler/	Date (YYYY-MM-DD)	2010-12-21
Name	John Andrew Winkler		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6450070
Issue Date: September 17,2002
Application No. 09971431
Filed: October 5,2001
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 7.5 year 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7148424
Issue Date: December 12,2006
Application No. 09971547
Filed: October 5,2001
Attorney Docket No. A-01.65

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of June 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7148424	2006-12-12	09971547	2001-10-05	A-01.65

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Arthur Jacob/	Date (YYYY-MM-DD)	2011-06-28
Name	Arthur Jacob	Registration Number	19702

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6582724	2003-06-24	09972008	2001-10-04	DRM-038US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Shantanu Basu/	Date (YYYY-MM-DD)	2011-09-08
Name	Shantanu Basu	Registration Number	43318

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6582724
Issue Date: June 24,2003
Application No. 09972008
Filed: October 4,2001
Attorney Docket No. 3200-0002.30

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 8,2011 ,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 September 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111116

DATE : November 16, 2011

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7189400

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:

/GARY NICKOL/
Supervisory Patent Examiner.Art Unit 1645

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED
MAY 02 2011
OFFICE OF PETITIONS

TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON, TX 77057-2631

In re Application of	:	
Kelan C. Silvester	:	
Application No. 09/972,273	:	DECISION ON PETITION
Filed: October 5, 2001	:	
Attorney Docket No. ITL.0673US (P12991)	:	

This is a decision on the petition, filed December 15, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a proper reply to the final Office action mailed February 7, 2006, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed June 12, 2008.

Petitioner asserts that on April 20, 2006, a Notice of Appeal and a Pre-Appeal Brief Request for Review was timely filed in response to the final Office action dated February 7, 2006. The petitioner also requests that the abandonment be withdrawn since no panel decision was ever rendered in the application.

A review of the file record does in fact indicate that the above response was received by the Office on April 20, 2006, therefore rendering the reply timely.

In view of the above, the holding of abandonment for failure to timely file a proper reply to the Office action of February 7, 2006, is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2157 for processing of the Notice of Appeal and Pre-Appeal Brief Request For Review filed on April 20, 2006.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
DEC 30 2011
OFFICE OF PETITIONS

In re Application of :
Ostanevich :
Application No. 09/972,337 :
Patent No.: 6,954,927 : DECISION ON PETITION
Filed: October 4, 2001 : PURSUANT TO
Issued: October 11, 2005 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: 020181- :
003200US :
Title: HARDWARE SUPPORTED :
SOFTWARE PIPELINED LOOP :
PROLOGUE OPTIMIZATION :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on December 13, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fees that were erroneously paid as a small entity, when the small entity fees were actually paid, the small entity fees that were actually paid, the deficiency owed amounts, and the total deficiency payment owed.

The deficiency payment in the amount of $2420.00 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6597269	2003-07-22	09972554	2001-10-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Marvin Motsenbocker/	Date (YYYY-MM-DD)	2012-03-22
Name	Marvin A. Motsenbocker	Registration Number	36614

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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.

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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. 6597269
Issue Date: July 22,2003
Application No. 09972554
Filed: October 5,2001
Attorney Docket No. MM4473

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 7.5 year 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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Alexandria, VA 22313-1450
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OCT 14 2010

OFFICE OF PETITIONS

Daniel P. Morris
IBM Corporation
Intellectual Property Law Dept.
P.O. Box 218
Yorktown Heights NY 10598

In re Application of Beaman et al.	:	
Application No. 09/972,622	:	Decision on Petition
Filing Date: October 9, 2001	:	
Attorney Docket No. YOR919950023US4	:	

This is a decision on the "Petition to Withdraw Notice of Appeal Dated 04-09-2004" filed April 15, 2004, which is being treated as a petition under 37 C.F.R. § 1.181 to withdraw the holding of abandonment of the above-identified application. The Office regrets the delay in the issuance of the instant decision.

The petition is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.181."

The Office mailed a final Office action on September 10, 2003. The Office action set a shortened statutory period for reply of three (3) months.

A reply to the final Office action was filed March 17, 2004. However, the reply was untimely because it was filed beyond the maximum extendable period for reply.

The Office mailed a Notice of Abandonment on April 9, 2004. In the Notice of Abandonment, the examiner indicated the March 17, 2004 amendment would not have been entered even if the amendment had been timely filed.

The instant petition was filed April 15, 2004.

Petitioner states a reply to the final Office action was timely facsimile transmitted on March 10, 2003. Petitioner states the reply consisted of a Notice of Appeal. Petitioner has submitted a copy of the previously transmitted Notice of Appeal, which bears a certificate of transmission dated March 10, 2010, and includes authorization to charge any necessary fees to Deposit

Account No. 09-0468. Petitioner has supplied a copy of a sending unit's report verifying a document consisting of a single page was transmitted to the Office on March 10, 2010.

37 C.F.R. § 1.8(b) states,

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:
>
> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

The petition satisfies the requirements set forth in 37 C.F.R. § 1.8(b). Therefore, the application did not go abandoned as a result of a failure by Applicants to timely file a reply to the final Office action. Since the Notice of Appeal was sent six months after the mailing date of the Office action, the Office has charged $950 to Deposit Account No. 09-0468 for a three-month extension of time.

Although the application did not become abandoned as a result of a failure by Applicants to file a reply to the final Office action, the application is abandoned.

The certificate of transmission date on the Notice of Appeal has been used when determining whether or not the Notice of Appeal is timely. However, the filing date of the Notice of Appeal is April 15, 2004, the date the notice was actually received by the Office. Pursuant to 37 C.F.R. § 41.37(a), an appeal brief and the fee required under 37 C.F.R. § 41.20(b)(2) were due within two months of the filing date of the Notice of Appeal absent payment for an extension of time. Neither a brief nor a request for an extension of time was filed. As a result, the appeal was dismissed pursuant to 37 C.F.R. § 41.37(b). Since no claim was allowed, the application became abandoned on June 16, 2004. *See* MPEP 1215.04.

In view of the prior discussion, the Office will take steps to have Office records changed to indicate the date of abandonment for the application is June 16, 2004, not March 11, 2004.

The Office recognizes a decision was not mailed in response to the petition to withdraw the holding of abandonment prior to the due date for the appeal brief. However, as stated in

37 C.F.R. § 1.181(f), "The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings."

A review of Office financial records indicates the Office charged $1,480 for a four-month extension of time to Deposit Account No. 09-0468 on April 5, 2004, as a result of the filing of the March 17, 2004 amendment. The $1,480 fee should not have been charged to the deposit account. Therefore, the Office has credited the $1,480 back to the deposit account.

Petitioner may wish to consider filing a petition to revive based on unintentional abandonment under 37 C.F.R. § 1.137(b). A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by the required reply (which may be a RCE instead of a brief), the required petition fee ($1,620 for a large entity), and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional.

A copy of a PDF "fillable" petition under 37 C.F.R. § 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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

MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON DC 20005-3096

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,657,310	:	
Issue Date: December 2, 2003	:	
Application No. 09/972,639	:	NOTICE
Filed: October 9, 2001	:	
Attorney Docket No. 085027-0052	:	

This is a notice regarding your request, March 23, 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. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 21 2010

OFFICE OF PETITIONS

Rambus Inc.
c/o Ann Williams
4440 El Camino Real
Los Altos, CA 94022

In re Patent No. 7,363,472	:	
Issue Date: April 22, 2008	:	
Application No. 09/972,797	:	NOTICE
Filed: October 9, 2001	:	
Patentee(s): Dave Stuttard, et. al.	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on September 8, 2010.

The request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Michael A. Glenn appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts.

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 and any future fee paid must be submitted at the large entity rate.

Inquiries related to this communication 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

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of :
Thomas C. Fall :
Application No. 09/973,135 : ON PETITION
Filed: October 9, 2001 :
Attorney Docket No. 149939 :

This is a decision on the petition filed August 24, 2011 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application, filed concurrently a petition under 37 CFR 1.182 for expedited consideration of the petition.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed February 6, 2006. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on April 7, 2006. See MPEP 1215.04. A Notice of Abandonment was mailed November 3, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The petition to expedited consideration under 37 CFR 1.182 is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1776 for appropriate action by the Examiner in the normal course of business on the reply received August 12, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: John S. Kern
277 South Washington Street, Suite 500
Alexandria, VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

MAILED

MAY 24 2011

OFFICE OF PETITIONS

GANZ LAW, P.C.
P O BOX 2200
HILLSBORO OR 97123

In re Patent Number: 6,692,430	:	
Issue Date: 02/17/2004	:	
Application Number: 09/973,181	:	NOTICE
Filing or 371(c) Date: 10/10/2001	:	
Attorney Docket Number: C2C-2.004	:	

This is a notice regarding your request for acceptance of a fee deficiency submission, which is treated under 37 CFR 1.28, filed on April 13, 2011.

The Office no longer investigates or rejects original or reissue patents 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 patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas 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.go

HANNA ALBERT AWAD
AJALTOUN, KESROUAN
LEBANON

MAILED
FEB 01 2011
OFFICE OF PETITIONS

In re Application of :
Awad :
Application No. 09/973,831 :
Filed: October 11, 2001 :
Attorney Docket No. N/A :
For: GOLD, PLATINUM, PALLADIUM, SILVER AND ALL PRECIOUS METALS AND PRECIOUS ELEMENTS MADE FROM OTHER ELEMENTS BY SPLITTING

ON PETITION

This decision addresses the constructive petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 12, 2003, and the petition to revive under 37 CFR 1.137(a), filed November 1, 2004.

The constructive petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **DISMISSED AS MOOT**.

The Office contended that the above-identified application became abandoned for failure to timely reply to the final Office action, mailed November 7, 2003, as was explained in the June 25, 2004 Notice of Abandonment.

However, the first Office action that was mailed to an incorrect address was the September 12, 2002 non-final Office action, which set a three month extendable period for reply. A review of the written record indicates an irregularity in the mailing of the Office action of September 12, 2002. In this regard, the Office ignored the explicit direction in the originally filed declaration to address all correspondence to the Lebanon address. Instead, the Office addressed all correspondence to a Michigan, U.S.A. address.

This error resulted in the September 12, 2002 non-final Office action being mailed to an incorrect address. On May 12, 2003, applicant filed an amendment and the present constructive petition to withdraw the holding of abandonment. The petition was never addressed and prosecution continued.

The Office mailed a final Office action to the same incorrect address on November 7, 2003. On April 28, 2004, applicant filed a change of correspondence address that was never entered. On April 29, 2004, applicant filed an amendment accompanied by a letter requesting that his amendment be considered timely filed without an extension of time because the Office failed to correct his address.

It is noted that applicant has filed multiple copies of his requests to correct the correspondence address, but the Office has ignored them all. The Office has mailed all correspondence in the application to an incorrect address.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

The petition under 37 CFR 1.137(a) is dismissed as moot.

For future reference, a petition under 37 CFR 1.137(a) will not be considered on the merits unless it is accompanied by the required petition fee.

After the mailing of this decision, the application will be returned to the Technology Art Unit 3663 for further examination. The April 29, 2004 amendment is to be considered a supplemental amendment, as it would be unjust to hold applicant accountable for the November 7, 2003 final Office action that was addressed incorrectly.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TAROLLI, SUNDHEIM,
COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND OH 44114

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :
Diesel :
Application No. 09/974,088 :
Filed: 9 October, 2001 :
Attorney Docket No. NG (NSD) 018838 US :
REI

DECISION

This is a decision on the petition filed on 13 July, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

The Examiner again has indicated his refusal to enter the amendment submitted by Petitioner.

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

BACKGROUND

The record reflects as follows:

Following a final Office action (a *Quayle* requirement for a new oath/declaration) in this re-issue application mailed on 18 January, 2008, and former Counsel's reply on 17 March, 2008, former Counsel failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 12 June, 2008, with reply due absent an extension of time on or before 12 July, 2008.

(The record reflects a submission by former Counsel on 30 June, 2008, and there is no indication in the record as to the sufficiency of the reply or lack thereof.)

It therefore appears that the application went abandoned by operation of law after midnight 12 July, 2008.

The Office mailed a Notice of Abandonment on 29 September, 2009.

A power of attorney was submitted on 14 October, 2009, and entered on 28 October, 2009.

On 4 November, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment and an assignee's oath/declaration, and made a statement of unintentional delay. Notably, however: the delay between the date of abandonment and the date of the filing of the original petition was greater than a year, for which extended delay there was no explanation of record; the application went abandoned while under the control of someone other than Petitioner—thus Petitioner appears not to have first-hand knowledge of the factual basis of the abandonment and thus the nature thereof; and there was no indication from the Examiner of a willingness to enter the amendment and accept the oath/declaration. The petition was dismissed on 15 March, 2010.

On 3 May, 2010, Petitioner re-advanced his petition, however, Petitioner's reply again was improper and the Examiner refused entry. Petitioner's amendment was not signed by Petitioner—instead, Petitioner had the amendment submitted and signed by his assistant. Petitioner—as one registered to practice before the Office—is well aware that this is not proper. (As always in these matters, Petitioners' attentions were directed to the regulations at, *inter alia*, 37 C.F.R. §1.4 and §10.18.) The petition was dismissed on 13 July, 2010.

On 13 July, 2010—two (2) years and a day after the application went abandoned and nearly ten (10) months after the mailing of the Notice thereof, Petitioner again re-advanced his petition, this time with a reply in the form of an amendment signed by Petitioner, with Petitioner's assertion that the application was abandoned due to unintentional delay and a narration to that effect with a further statement by Lisa L. Pringle (Ms. Pringle), averred to be Petitioner's legal assistant. However, the Examiner has indicated that he will not enter the amendment because upon his review he concluded that Petitioner has "not satisfied the requirements of 37 C.F.R. §1.175(b)." Petitioner **must direct to the Examiner** any substantive discussion of the matter.

These deficiencies must be overcome on any renewed petition.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) 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

[4] 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TAROLLI, SUNDHEIM,
COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND OH 44114

MAILED
JAN 31 2011
OFFICE OF PETITIONS

In re Application of :
Diesel :
Application No. 09/974,088 :
Filed: 9 October, 2001 :
Attorney Docket No. NG (NSD) 018838 US :
REI

DECISION

This is a decision on the petition filed on 20 October, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Following a final Office action (a *Quayle* requirement for a new oath/declaration) in this re-issue application mailed on 18 January, 2008, and former Counsel's reply on 17 March, 2008, former Counsel failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 12 June, 2008, with reply due absent an extension of time on or before 12 July, 2008.

(The record reflects a submission by former Counsel on 30 June, 2008, but that reply remained incomplete.)

It therefore appears that the application went abandoned by operation of law after midnight 12 July, 2008.

The Office mailed a Notice of Abandonment on 29 September, 2009.

A power of attorney was submitted on 14 October, 2009, and entered on 28 October, 2009.

On 4 November, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment and an assignee's oath/declaration, and made a statement of unintentional delay. Notably, however: the delay between the date of abandonment and the date of the filing of the original petition was greater than a year, for which extended delay there was no explanation of record; the application went abandoned while under the control of someone other than Petitioner—thus Petitioner appears not to have first-hand knowledge of the factual basis of the abandonment and thus the nature thereof; and there was no indication from the Examiner of a willingness to enter the amendment and accept the oath/declaration. The petition was dismissed on 15 March, 2010.

On 3 May, 2010, Petitioner re-advanced his petition, however, Petitioner's reply again was improper and the Examiner refused entry. Petitioner's amendment was not signed by Petitioner—instead, Petitioner had the amendment submitted and signed by his assistant. Petitioner—as one registered to practice before the Office—was/is well aware that this is not proper. (As always in these matters, Petitioners' attentions were directed to the regulations at, *inter alia*, 37 C.F.R. §1.4 and §10.18.) The petition was dismissed on 13 July, 2010.

On 13 July, 2010—two (2) years and a day after the application went abandoned and nearly ten (10) months after the mailing of the Notice thereof, Petitioner again re-advanced his petition, this time with a reply in the form of an amendment signed by Petitioner, with Petitioner's assertion that the application was abandoned due to unintentional delay and a narration to that effect with a further statement by Lisa L. Pringle (Ms. Pringle), averred to be Petitioner's legal assistant. However, the Examiner indicated that he would not enter the amendment because upon his review he concluded that Petitioner had "not satisfied the requirements of 37 C.F.R. §1.175(b)." Again the Petitioner was reminded that his inquiries as to the matter, and the petition was dismissed <u>a third time</u> on 27 August, 2010.

On 20 October, 2010, Petitioner re-advanced once more the petition pursuant to 37 C.F.R. §1.137(b), a reply in the form of a request for continued examination (RCE) and fee and a submission under the provisions of 37 C.F.R. §1.114 in the form of an amendment, with new oaths/declarations, and his complaint that the Office did not send out a Notice of Abandonment until several months after the application went abandoned by operation of law—this, despite the clear failure of prior Counsel to reply timely and properly, and so to satisfy the requirement of the reply as to the final Office action.

The record (including the petitions filed on 4 November, 2009, 3 May, 2010, 13 July, 2010, and 20 October, 2010) does not necessitate a finding that the delay between midnight 12 July, 2008 (the date of abandonment), and 20 October, 2010 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Christopher P. Harris (Reg. No. 43,660) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

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[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3661 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) 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

[5] 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND OH 44114

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of John W. Diesel Application No. 09/974,088 Filed: October 9, 2001 Attorney Docket No. NG (NSD) 018838 US REI	:	DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed July 20, 2011.

The request is **GRANTED**.

Applicant request a refund of two (2) of the Petition to Revive (37 CFR 1.137(b) fees, paid in the above identified application.

A review of the application records show that a petition under 37 CFR 1.137(b) was filed on November 4, 2009, to include the petition fee of $1,620.00. A renewed petition was filed on May 3, 2010 and July 13, 2010, which also included the petition fee of $1,620.00.

Since the renewed petitions filed May 3, 2010 and July 13, 2010, requires no petition fee, the request for refund is granted.

A total of $3,240.00 is being credited to petitioner's credit card account as it is the method in which the fees were paid.

Further, applicant should be aware that the first page of the request for refund reference application no. 09/200,586 instead of the above application no. 09/974,088. The second page of the request referenced the correct application number.

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
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Paper No.

MAILED
NOV 07 2011
OFFICE OF PETITIONS

JOHN W. MCLEOD
SOUTHWEST RESEARCH INSTITUTE
P.O. DRAWER 28510
SAN ANTONIO TX 78228-0510

In re Application of :
Charles Edward Roberts Jr. :
Application No. 09/974,210 :
Patent No.: 6,708,666 : DECISION ON PETITION
Filed: October 10, 2001 : PURSUANT TO
Issued: March 23, 2004 : 37 C.F.R. § 1.28(c)
Title: MULTI-ZONE COMBUSTION :
CHAMBER FOR COMBUSTION RATE :
SHAPING AND EMISSIONS CONTROL :
IN PREMIXED-CHARGE COMBUSTION :
ENGINES :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on October 19, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 C.F.R. § 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 C.F.R. § 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this notice is intended to imply that an investigation was done.

Petitioner has identified the particular type of fee that was erroneously paid as a small entity, when the small entity fee was actually paid, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed. The deficiency payment in the amount of $1610 has been received.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

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 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.

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 which asserts that small entity status was established in good faith was in a position to have firsthand or direct knowledge of the facts and circumstances of the establishment of small entity status. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such establishment. 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 establishment of small entity status was not made in good faith, Petitioner must notify the Office.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Kendal M. Sheets
CPA Global
2318 Mill Road
Suite 12 Floor
Alexandria, VA 22314

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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MAILED
JUL 06 2011
OFFICE OF PETITIONS

THOMAS C. PONTANI, ESQ.
COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE, SUITE 1210
NEW YORK, NY 10176

In re Patent No. 6,647,902
Issued: November 18, 2003
Application No. 09/974,398
Filed: October 10, 2001
Attorney Docket No. 5150-8

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 16, 2011.

37 CFR 1.28(c)(2)(ii) states:

> (ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:
>
> (A) Each particular type of fee that was erroneously paid as a small entity, (*e.g.*, basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;
>
> (B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;
>
> (C) The deficiency owed amount (for each fee erroneously paid); and
>
> (D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

The request does not comply with (D) above. In this regard, the request is accompanied by an authorization to charge the fee deficiency payment of $3,425 to a deposit account; however, the deposit account does not contain sufficient funds to charge the requested fee. Accordingly the request for acceptance of a fee deficiency cannot be accepted at this

fee. Accordingly the request for acceptance of a fee deficiency cannot be accepted at this time. This communication is being treated under 1.27(g)(3) as a notification of a loss of entitlement to small entity status.

Applicant is given **ONE MONTH** from the mailing date of this communication to submit the fee deficiency. This time period is not extendable under 37 CFR 1.136(a).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions
By Internet:	EFS-Web[1]

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] **www.uspto.gov/ebc/efs_help.html** (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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MAILED
SEP 12 2011
OFFICE OF PETITIONS

THOMAS C. PONTANI, ESQ.
COHEN, PONTANI, LIEBERMAN & PAVANE
551 FIFTH AVENUE, SUITE 1210
NEW YORK, NY 10176

In re Patent No. 6,647,902	:	
Issued: November 18, 2003	:	
Application No. 09/974,398	:	NOTICE
Filed: October 10, 2001	:	
Attorney Docket No.: 5150-8	:	

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed August 8, 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,517,035	2003-02-11	09/975,000	2001-10-11	7732.3846

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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 l haley/	Date (YYYY-MM-DD)	2011-04-26
Name	Barry L. Haley	Registration Number	25339

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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
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www.uspto.gov

In re Patent No. 6517035
Issue Date: February 11,2003
Application No. 09975000
Filed: October 11,2001
Attorney Docket No. 7732.3846

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 26,2011 ,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 April 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAILED
JUN 09 2011
OFFICE OF PETITIONS

KNOBBE, MARTENS, OLSON & BEAR, LLP
2040 MAIN STREET
14TH FLOOR
IRVINE CA 92614

In re Patent No. 6,672,018	:	
Issue Date: January 6, 2004	:	
Application No. 09/975,572	:	NOTICE
Filed: October 12, 2001	:	
Attorney Docket No. SNPWR.037A	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 submitted on March 9, 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:

HAYNES BEFFEL WOLFELD LLP
P.O. BOX 366
HALF MOON BAY, CA 94019

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/30/12

TO SPE OF : ART UNIT 2453

SUBJECT : Request for Certificate of Correction for Appl. No.: 09975690 Patent No.: 7404175

CofC mailroom date: 01/05/10

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 the changes be made?

RoChaun Hardwick
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: Please note that all proposed changes are approved for entry.

/Krista Zele/ 2453
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Loginova et al.	:	
Application No. 09/975,756	:	DECISION ON REQUEST
Filed: October 10, 2001	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 5.25
967.061US1	:	
Title: COSMETIC PRODUCT	:	
CONTAINING ACRYLATES	:	

This is a decision on the petition pursuant to 37 C.F.R. § 5.25, filed on November 7, 2011, seeking a retroactive license for foreign filing under 35 U.S.C. § 184.

The petition is **DISMISSED**.

A grantable petition pursuant to 37 C.F.R. § 5.25 must be accompanied by:

(1) a listing of each of the foreign countries in which the unlicensed patent application material was filed;
(2) The dates on which the material was filed in each country;
(3) A verified statement (oath or declaration) containing:
  (i) An averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order,
  (ii) A showing that the license has been diligently sought after discovery of the proscribed foreign filing, and
  (iii) An explanation of why the material was filed abroad through error and without deceptive intent without the required license under § 5.11 first having been obtained, and;

(4) The required fee (§ 1.17(g) of this chapter).

The petition complies with requirements (1), (2), (3)(i), and (4) of 37 C.F.R. § 5.25. Petitioner has provided a listing of each of the foreign countries in which the unlicensed patent application material was filed,[1] the date on which the material was filed in another country,[2] and a verified statement containing an averment that the subject matter in question was not under a secrecy order at the time it was filed abroad, and that it is not currently under a secrecy order.[3] Petitioner has further included the required $200 petition fee.

The petition fails to comply with requirements (3)(ii) and (3)(iii) of 37 C.F.R. § 5.25. A discussion follows.

Regarding requirement (3)(ii) of 37 C.F.R. § 5.25, Petitioner has failed to provide a showing that the license has been diligently sought after discovery of the proscribed foreign filing: it is noted that the foreign disclosure occurred more than a decade prior to the filing of this petition.

Regarding requirement (3)(iii) of 37 C.F.R. § 5.25, it is not clear if Petitioner is the person who has actual knowledge and made the actual decision to file abroad before securing a foreign filing license. Moreover, this statement does not reveal the error that occurred which resulted in the foreign disclosure without first securing a foreign filing license. On renewed petition, Petitioner must explain what error led to the disclosure of this information in a foreign filing, prior to securing a foreign filing license. It is noted that time deadlines for filings do not suffice as an "error" for securing a retroactive foreign filing license.

The response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 5.25." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski,

---

1 Germany.
2 July 2, 2001.
3 Kalis statement, paragraph 4.

and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the address that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[8]

/Ramesh Krishnamurthy/
Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

---

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300: please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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SCHWABE, WILLIAMSON
& WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE WA 98101-4010

MAILED

SEP 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Acharya, et al.	:	DECISION ON PETITION
Application No. 09/975,831	:	
Filed: 11 October, 2001	:	
Attorney Docket No. 122118-175973	:	

This is a decision on the petition filed on 29 August, 2011, pursuant to the regulations at 37 C.F.R. §1.47 and §1.48.

The petitions pursuant to 37 C.F.R. §1.47(a) and §1.48 are **DISMISSD**.

Rule 47/48 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Pursuant to 37 C.F.R. §1.47 and §1.48," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

RULE 47

A grantable petition pursuant to 37 C.F.R. §1.47(a) requires: petition and fee; proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

Petitioner does not seem to have worked through the requirements of the petition, as set forth above, in satisfaction of those requirements. (*See, generally:* MPEP §409.03, and §409.03(a)—the applicable statute (35 U.S.C.§ 116).

RULE 48

A grantable petition pursuant to 37 C.F.R. §1.48 requires: a request to correct the inventorship that sets forth the desired inventorship change; a statement from each person being added as an inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part; an oath or declaration by the actual inventors as required by §1.63 or as permitted by §1.42, §1.43, or §1.47; the processing fee set forth in §1.17(i); if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 C.F.R. §3.73(b)). Petitioner must present in support of the petition pursuant to 37 C.F.R. §1.48 an oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64.

Petitioner must present in support of the petition pursuant to 37 C.F.R. §1.48 an oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64.

In particular, Petitioner has not as of this writing satisfied the requirement(s) of the petition as listed above and discussed below.

Petitioners always are reminded that for transmission by Email of any document to be accepted by the Office, written acknowledgment of receipt and readability of the message and all applicable attachments of required materials must be provided.

BACKGROUND

The record reflects as follows:

The application was deposited on 11 October, 2001, with, *inter alia*, a fully executed oath/declaration, and prosecuted thereafter.

Following a series of amendments and a non-final Office action on 28 February, 2011, Petitioner Dennis M. de Guzman (Reg. No. 41,702) filed on 29 August, 2011, *inter alia*, a request and fee for extension of time and petitions pursuant to 37 C.F.R. §1.47 and §1.48, an oath/declaration signed by co-inventors Gremett and Lingutla and:

- naming an inventive entity now comprised of Mr. Gremett and Mr. Lingula, as well as non-signing inventors Kamal Acharya (Mr. Acharya), Vincent Tong (Mr. Tong), and Matthew Crampton (Mr. Crampton), but no longer including Ellen F. Butler (now Ellen F. Butler Patterson) (Ms. Butler/Ms. Butler-Patterson) and

- executed by Mr. Gremett and Mr. Lingutla for themselves and on behalf of non-signing co-inventors Mr. Acharya, Mr. Tong, and Mr. Crampton.

- A statement by Ms. Butler/Ms. Butler-Patterson that she no longer was a member of the inventive entity and concurring in her removal and that the former statement and the present removal were without deceptive intent.

Petitioner chose to flood the record with several hundred pages of documents that were attachments and did not go to the substance of successful or unsuccessful transmittal of the papers in question to the non-signing inventors—what is notable is that deliveries were made by a courier driver to the "porch" (*e.g.*, for Mr. Tong), or the "patio" (*e.g.*, for Mr. Crampton) or the "front door" (*e.g.*, for Mr. Archya)—and so leaving unclear as to the validity of the addresses used.

Thus, Petitioner may find it beneficial to step through the requirements of a grantable petition pursuant to 37 C.F.R.:

- §1.47(a) (i.e., (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address) and satisfy himself that he has complied with these requirements on submission of any renewed petition. (*See also*: the guidance in the Commentary at MPEP §409.03, and §409.03(a), et seq.)

- §1.48 (i.e., (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventors as required by §1.63 or as permitted by §1.42, §1.43, or §1.47; (4) the processing fee set forth in §1.17(i); (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 C.F.R. §3.73(b)))

The present incompleteness of the record makes granting of the instant petition inappropriate.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

Petitioner has failed to establish that the non-signing inventors have been presented with the full application and have refused to sign the declaration (the proof of the pertinent events must be made by a statement of someone with first hand knowledge of the events with support of the registered practitioner prosecuting this matter) or cannot be reached.

A copy of the entire application must be sent to the last known addresses of the non-signing inventors with a request that they sign the declaration for the patent application. A forwarding address should be requested, if the papers are returned, and other attempts to locate the inventor, e.g. through e-mail or the telephone continue to fail, then applicant will have established that the inventor cannot be reached. Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented. The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[2]

Accordingly, the petitions pursuant to 37 C.F.R. §1.47 and §1.48 must be and hereby are **dismissed**.
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

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] *See*: MPEP 409.03(b).

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) 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

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SCHWABE, WILLIAMSON
& WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE WA 98101-4010

MAILED

DEC 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Acharya, et al.	:	DECISION ON PETITION
Application No. 09/975,831	:	
Filed: 11 October, 2001	:	
Attorney Docket No. 122118-175973	:	

This is a decision on the petition filed on 3 November, 2011, pursuant to the regulations at 37 C.F.R. §1.47 and §1.48.

The petitions pursuant to 37 C.F.R. §1.47(a) and §1.48 are **GRANTED**.

RULE 47

A grantable petition pursuant to 37 C.F.R. §1.47(a) requires: petition and fee; proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address.

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written consent of the assignee (see 37 C.F.R. §3.73(b)). Petitioner must present in support of the petition pursuant to 37 C.F.R. §1.48 an oath or declaration in compliance with 37 C.F.R. §1.63 and §1.64.

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BACKGROUND

The record reflects as follows:

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- naming an inventive entity now comprised of Mr. Gremett and Mr. Lingula, as well as non-signing inventors Kamal Acharya (Mr. Acharya), Vincent Tong (Mr. Tong), and Matthew Crampton (Mr. Crampton), but no longer including Ellen F. Butler (now Ellen F. Butler Patterson) (Ms. Butler/Ms. Butler-Patterson) and

- executed by Mr. Gremett and Mr. Lingutla for themselves and on behalf of non-signing co-inventors Mr. Acharya, Mr. Tong, and Mr. Crampton.

- A statement by Ms. Butler/Ms. Butler-Patterson that she no longer was a member of the inventive entity and concurring in her removal and that the former statement and the present removal were without deceptive intent.

At that time Petitioner chose to flood the record with several hundred pages of documents that were attachments and did not go to the substance of successful or unsuccessful transmittal of the papers in question to the non-signing inventors—what is notable is that deliveries were made by a courier driver to the "porch" (*e.g.*, for Mr. Tong), or the "patio" (*e.g.*, for Mr. Crampton) or the "front door" (*e.g.*, for Mr. Acharya)—and so leaving unclear as to the validity of the addresses used. The petition was dismissed on 6 September, 2011.

(In the interim, the Examiner indicated that she has no objection to the alteration of the inventive entity by virtue of removal of Ms. Butler/Ms. Butler-Patterson.)

On 3 November, 2011, Petitioner re-advanced the petition, and therein: evidenced the joinder of co-inventor Mr. Acharya; the satisfactory delivery of transmittal of the entire application to co-inventors Mr. Tong and Mr. Crampton, and thereafter the respective failures of Mr. Tong and Mr. Crampton to reply/sign/join. Thus, Petitioner avers the constructive refusal of Mr. Tong and Mr. Crampton to sign/join. Thus, Petitioner sought to satisfy the requirements of a grantable petition pursuant to:

- 37 C.F.R. §1.47(a) (i.e., (1) petition and fee; (2) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification: description, claims and drawings); (3) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; and (4) a statement of the last known address of the non-signing inventor(s)—with diligence in the effort to ascertain the validity of the address set forth as the reasonably believed to be last known/current/valid address) and satisfy himself that he has complied with these requirements on submission of any renewed petition. (*See also*: the guidance in the Commentary at MPEP §409.03, and §409.03(a), et seq.); and

- 37 C.F.R. §1.48 (i.e., (1) a request to correct the inventorship that sets forth the desired inventorship change; (2) a statement from each person being added as an inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part; (3) an oath or declaration by the actual inventors as required by §1.63 or as permitted by §1.42, §1.43, or §1.47; (4) the processing fee set forth in §1.17(i); (5) if an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 C.F.R. §3.73(b)))

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

CONCLUSION

The instant petitions pursuant to 37 C.F.R. §1.47(a) and §1.48 are **granted** (status is accorded pursuant to 37 C.F.R. §1.47(a).)

As provided in 37 C.F.R. §1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The instant application is released to the Technology Center/AU 3625 for such processing as required in due course.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[2] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTHEW CRAMPTOM
841 W. CALIFORNIA AVE./UNIT C
SUNNYVALE, CA 94086

MAILED

DEC 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Acharya, et al.	:	DECISION ON PETITION
Application No. 09/975,831	:	
Filed: 11 October, 2001	:	
Attorney Docket No. 122118-175973	:	

Dear Matthew Crampton:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47 (Code of Federal Regulations) and §1.48, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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/your action(s) and/or inactions. Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
SCHWABE, WILLIAMSON
& WYATT, P.C.
1420 FIFTH AVENUE, SUITE 3400
SEATTLE WA 98101-4010

[1] The regulations at 37 C.F.R. §1.2 provide:
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UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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VINCENT TONG
34734 WILLIAMS WAY
UNION CITY, CA 94587-5578

MAILED

DEC 09 2011

OFFICE OF PETITIONS

In re Application of	:	
Acharya, et al.	:	DECISION ON PETITION
Application No. 09/975,831	:	
Filed: 11 October, 2001	:	
Attorney Docket No. 122118-175973	:	

Dear Vincent Tong:

You are named as an inventor in the above-identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47 (Code of Federal Regulations) and §1.48, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as an inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Should you elect to join in the application, the contact information for Counsel of Record is set forth at the end of this Communication.

Should you seek to identify independent Counsel, you may find the Patent Attorneys/Agents Search engine of assistance (https://oedci.uspto.gov/OEDCI/).

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Telephone inquiries regarding this communication may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) 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/your action(s) and/or inactions. Moreover, the Office can neither advise you nor recommend Counsel in this matter.

/John J. Gillon, Jr./
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PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7209870	2007-04-24	09976187	2001-10-12	3201-2-1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	● 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ○ A joint patentee; all of whom are signing this e-petition
- ○ The assignee of record of the entire interest

Under 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	/A. John Pate 3201-2-1 110830/	Date (YYYY-MM-DD)	2011-08-30
Name	A. John Pate	Registration Number	36234

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7209870
Issue Date: April 24,2007
Application No. 09976187
Filed: October 12,2001
Attorney Docket No. 3201.2.1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 30,2011 . 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6512253	2003-01-28	09976317	2001-10-15	001701.00122

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	Small Entity	Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
●	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ● An attorney or agent registered to practice before the Patent and Trademark Office
- ○ A sole patentee
- ○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/Gary D. Fedorochko/	Date (YYYY-MM-DD)	2011-09-09
Name	Gary D. Fedorochko	Registration Number	35509

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6512253
Issue Date: January 28,2003
Application No. 09976317
Filed: October 15,2001
Attorney Docket No. 001701.00122

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICES OF BRIAN S STEINBERGER
101 BREVARD AVENUE
COCOA, FL 32922

MAILED

OCT 12 2011

OFFICE OF PETITIONS

In re Patent No. 6,659,721 :
Issued: December 9, 2003 :
Application No. 09/976,515 : ON PETITION
Filed: October 12, 2001 :
Attorney Docket No: UCF-288CIP :

This is a decision regarding your request for acceptance of a fee deficiency submission filed September 22, 2011. The request is being treated as a petition 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.33d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission in the amount of $1240.00 under 37 CFR 1.28 has been applied and is hereby accepted. The petition is therefore **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MARTIN C. FLIESLER, ESQ.
FLIESLER MEYER LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111-4156

MAILED
DEC 02 2011
OFFICE OF PETITIONS

In re Patent No. 6,724,598	:	
Issued: April 20, 2004	:	
Application No. 09/977,136	:	NOTICE
Filed: October 12, 2001	:	
Attorney Docket No. SPX-042	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 20, 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 request 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 request 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. Further, while, a courtesy copy of this decision is being mailed to the address given on the request, 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: Martin C. Fliesler
650 California Street, 14th Floor
San Francisco, California 94108

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,497	10/16/2001	Colin Andrew Low	30004640-2	1504

22879 7590 08/18/2010
HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS, CO 80528

EXAMINER
SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
2457	

NOTIFICATION DATE	DELIVERY MODE
08/18/2010	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JERRY.SHORMA@HP.COM
ipa.mail@hp.com
laura.m.clark@hp.com

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

In re Application of: Colin Andrew LOW, et al.
Application No. 09/977,497
Filed: Oct 16, 2001
For: INVITING ASSISTANT ENTITY INTO A NETWORK COMMUNICATION SESSION

DECISION ON PETITION UNDER 37 C.F.R. § 1.181 TO WITHDRAW HOLDING OF ABANDONMENT

This is a decision in response to the petition filed August 09, 2010 under 37 CFR § 1.181 requesting the withdrawal of the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application is held abandoned for failure to timely file a reply to the Board of Patent Appeals and Interferences Decision mailed June 14, 2010. The Notice of Abandonment was mailed on July 20, 2010.

37 CFR 1.198. states:

> When a decision by the Board of Patent Appeals and Interferences on appeal has become final for judicial review, prosecution of the proceeding before the primary examiner will not be reopened or reconsidered by the primary examiner **except under the provisions of § 1.114** or § 41.50 of this title without the written authority of the Director, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

MPEP 1214.07 states:

> ... if the amendment is submitted with a request for continued examination (RCE) under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e), prosecution of the application **will be reopened** and the **amendment will be entered**. See MPEP § 706.07(h), paragraph XI.

A review of the file record indicates that a Request for Continued Examination dated Aug 09, 2010 was timely filed based upon the receipt date of Board decision (within two months from the Board decision). Thus, the Notice of Abandonment mailed July 20, 2010 was premature.

The **holding of Abandonment is hereby <u>withdrawn</u>**.

The application is being forwarded to the appropriate personnel for treatment of the RCE filed Aug 09, 2010.

/Kim Huynh/

Kim Huynh, SPRE/QAS
Technology Center 2400
Network, Multiplexing, Cable and Security
571-272-4147

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of	:	
Craig R. White	:	
Application No. 09/977,687	:	DECISION ON PETITION
Filed: October 16, 2001	:	
Attorney Docket No. **10011785-1**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 2, 2010, to revive the above-identified application.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 5, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 5, 2010. Accordingly, the date of abandonment of this application is November 6, 2010.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to the Office of Data Management for processing into a patent.

JoAnne Burke
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

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT LLP
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Application of	:	
Ooms, et al.	:	
Application No. 09/978,096	:	DECISION ON PETITION
Filed: October 17, 2001	:	
Attorney Docket No. 214975US99	:	

This is a decision on the "PETITION IN RESPONSE TO IMPROPER NOTICE OF ABANDONMENT", filed May 19, 2004, which is being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment. The petition was just recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a response to the final Office action mailed May 16, 2003. This Office action set a shortened statutory period for reply of three (3) months. The Office mailed a Notice of Abandonment on May 17, 2004, stating that no reply had been received.

A review of the application file reveals the presence of a Notice of Appeal, filed on November 7, 2003. A review of Office finance records confirms that the Office received the fee for the three month extension of time and the Notice of Appeal on that same day. Accordingly, it is obvious that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn.**

Please be advised that the two month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)) runs from the date of this decision.

The application is being forwarded to Group Art Unit 2811 to await applicants' submission of the Appeal Brief.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 25 2011

OFFICE OF PETITIONS

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

In re Application of	:	
Zicker, et al.	:	
Application No.: 09/978,127	:	ON PETITION
Filed: October 16, 2001	:	
Attorney Docket No:6493-02-HL	:	

This is a decision on the petition under 37 CFR §1.137(b), February 10, 2011, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed June 23, 2010. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 24, 2010.

Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Item 1 above has not been satisfied as no response to the non-final Office action was filed with the petition. The renewed petition must be accompanied by a proper response to the non-final Office action, which might include either an amendment or a continuing application.

The extension of time within the third month filed February 10, 2011, is noted, but cannot be granted and is not necessary because the request was made outside the maximum statutory period for reply to the non-final Office action. The amount of $1,730.00 will be refunded, in due course.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
JUN 27 2011
OFFICE OF PETITIONS

COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

In re Application of
Zicker, et al.
Application No.: 09/978,127
Filed: October 16, 2001
Attorney Docket No:6493-02-HL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed June 23, 2010. The notice set a shortened statutory period for reply of three months from its mailing date. No response was received within the allowable period, and the application became abandoned on September 24, 2010.

The continuing application accorded application serial number 12/977,798 filed December 23, 2010, is noted. With continuity having been established, the subject application is again abandoned in favor of the continuing application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6692500	2004-02-17	09978449	2001-10-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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	/ Gary J. Reed/	Date (YYYY-MM-DD)	2012-03-27
Name	Gary J. Reed		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6692500
Issue Date: February 17,2004
Application No. 09978449
Filed: October 15,2001
Attorney Docket No. 31111-PA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 27,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 27,2012 .
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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6689137	2004-02-10	09978490	2001-10-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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	/ Gary J. Reed/	Date (YYYY-MM-DD)	2012-03-27
Name	Gary J. Reed		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6689137
Issue Date: February 10,2004
Application No. 09978490
Filed: October 15,2001
Attorney Docket No. 31109-PA

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 27,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 27,2012 .
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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Orrin M. Haugen, Esq.
HAUGEN LAW FIRM PLLP
1130 TCF Tower
121 South Eighth Street
Minneapolis MN 55402

MAILED
JUN 30 2011
OFFICE OF PETITIONS

In re Patent No. 6,557,283	:	
Issue Date: May 6, 2003	:	
Application No. 09/978,886	:	ON PETITION
Filed: October 16, 2001	:	
Attorney Docket No. 980176.ORI	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 25, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 6, 2011 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Jose' G Dees at (571) 272-1569.

Christopher Bottorff
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
JUL 07 2011
OFFICE OF PETITIONS

In re Patent No: 6,657,409	:	
Issued: December 2, 2003	:	
Application No. 09/979,264	:	NOTICE
Filed: February 27, 2002	:	
Attorney Docket No. 03258.00001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 8, 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 **DISMISSED**.

The request under 37 CFR 1.28 cannot be accepted at this time since it appears that the petition is not signed by a person having authority to act in the above-identified patent.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, that part of the petition that is directed to the deficiency payment is not signed by the proper party. Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop 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.

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: Kelly O'Leary
10 South Wacker Drive, Suite 3000
Chicago, Illinois 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Patent: 6,657,409	:	
Issued: December 2, 2003	:	
Application No. 09/979,264	:	ON PETITION
Filed: February 27, 2002	:	
Attorney Docket No. 03258.00001	:	

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 16, 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.

Further, although the petition is signed by a registered patent attorney/agent it does not set forth a USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney/agent must contain his/her registration number. However, the accompanying document does include the signature and registration number for Christopher Glembocki. Therefore, the petition is accepted as being properly signed.

Additionally, it appears petitioner has submitted an unnecessary duplicate payment of $1,240.00 on August 16, 2010. This amount will be refunded to petitioner's deposit account in due course.

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

CERTIFICATE

Patent No. 6,754,537
Patented: June 06, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above-identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

William Vanbrooks Harrison of Valencia, CA; Janusz A. Kuzma of Parker, CO; Alfred E. Mann of Beverly Hills, CA; Thomas J. Balkany of Coral Gables, FL and Bruce J. Gantz.

Niketa I. Patel
Supervisory Patent Examiner
Art Unit 3762
Technology Center 3700

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address : COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/979,804	13 November 2001	HARRISON ET AL.	AB-088U1

EXAMINER
NIKETA PATEL

ART UNIT	PAPER
3762	20120104

DATE MAILED:

Bryant R Gold
Advanced Bionics Corporation
12740 San Fernando Road
Sylmar, CA 91342

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

/Niketa I. Patel/
Supervisory Patent Examiner, Art Unit 3762

UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
09/979,804	13 November 2001	HARRISON ET AL.	AB-088U1

EXAMINER
NIKETA PATEL

ART UNIT	PAPER
3762	20120104

DATE MAILED:

Bryant R Gold
Advanced Bionics Corporation
12740 San Fernando Road
Sylmar, CA 91342

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

/Niketa I. Patel/
Supervisory Patent Examiner, Art Unit 3762

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRYANT R. GOLD
ADVANCED BIONICS CORPORATION
12740 SAN FERNANDO ROAD
SYLMAR CA 91342

In re Patent No. 6,754,537
Issue Date: June 22, 2004
Appl. No: 09/979,804
Filed: November 13, 2001
For: Correction of Inventorship

This is a decision on the petition filed June 23, 2011, to correct inventorship under 37 CFR 1.324.

The petition is **GRANTED**.

The patented filed is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

/Niketa Patel/

Niketa Patel
Supervisory Patent Examiner Art Unit 3762
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,754,537
Patented: June 06, 2004

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above-identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

William Vanbrooks Harrison of Valencia, CA; Janusz A. Kuzma of Parker, CO; Alfred E. Mann of Beverly Hills, CA; Thomas J. Balkany of Coral Gables, FL and Bruce J. Gantz.

Niketa I. Patel
Supervisory Patent Examiner
Art Unit 3762
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,650,619	:	
Mineyama	:	DECISION ON REQUEST
Issue Date: January 19, 2010	:	FOR RECONSIDERATION
Application No. 09/979,969	:	OF PATENT TERM
Filed: March 14, 2002	:	ADJUSTMENT
Attorney Docket No. 09812.0416	:	

This is a decision on the "Application for Patent Term Adjustment-Post Grant" under 37 C.F.R. 1.705(d), filed July 19, 2010, more than two months from the date the above-referenced patent issued. Patentees request correction of the patent term adjustment from one thousand, six hundred and twenty-three (1,623) days to one thousand, nine hundred and seventy-four (1,974) days.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On January 19,2 010, the above-identified application matured into U.S. Patent No. 7,650,619, with a revised patent term adjustment of 1,623 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.705(d) for reconsideration of the patent term adjustment.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**[1].

CONCLUSION

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

Deposit account 06-0916 will be charged $200.00 for the fee required by 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

[1] It is further noted that the instant request does not qualify for consideration given to some patent matters in light of the Federal Circuit decision in *Wyeth V. Kappos* because the petition was filed after March 2, 2010.

RENEWED PETITION FOR REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH*

Attorney Docket Number:	09812.0416-00000		
Application Number:	09/979,969	Filing Date (or 371(b) or (f) Date):	March 14, 2002
Patent Number:	7,650,619	Issue Date:	January 19, 2010
First Named Inventor:	Toru Mineyama		
Title:	Virtual Program List Providing System		

PATENTEE ORIGINALLY FILED AN APPLICATION FOR PATENT TERM ADJUSTMENT - POST GRAND ON JULY 19, 2010 REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Applicant received a Decision on Request for Reconsideration of Patent Term Adjustment mailed August 27, 2010. The decision was "dismissed as untimely filed". However, for patents issued before March 2, 2010, a request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's *pre-Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and the form was filed within *180 days of the patent was granted.*

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).*

If there are any fees due in connection with the filing of this request, please charge such fees to our Deposit Account No. 06-0916.

Signature	/David W. Hill/	Date	October 22, 2010
Name (Print/Typed)	David W. Hill	Registration Number	28,220

***Note**: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of [No. of Forms] forms are submitted.

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

FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 11/09/2010

Applicant	: Toru Mineyama	: DECISION ON REQUEST FOR
Patent Number	: 7650619	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/979,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1974** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

MAILED
APR 05 2012
OFFICE OF PETITIONS

In re Patent No. 6,791,261 :
Application No. 09/980,100 :
Filed: March 8, 2002 : ON PETITION
Issued: September 14, 2004 :
Attorney Docket No. 111241 :

This is a decision on the petition filed January 20, 2012, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Petitioner has submitted $400.00 towards the requisite $130.00 surcharge fee, thus creating a $270.00 overage. Accordingly, this amount will be refunded to petitioner via treasury check in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/11

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 09980150 Patent No.: 7846465

CofC mailroom date: 02/25 /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 571-270-9990

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.

X **Approved**	All changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

Formatted: Indent: Left: 1.22"

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Fereydoun Sajjadi/ SPE, AU 1617

SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/14/11

TO SPE OF : ART UNIT 1617

SUBJECT : Request for Certificate of Correction for Appl. No.: 09980150 Patent No.: 7846465

CofC mailroom date: 02/25 /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 571-270-1990

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.

X	**Approved**	**All** changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

_____

_____

PAGE 2/3 * RCVD AT 3/16/2011 10:58:19 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/48 * DNIS:2723421 * CSID: * DURATION (mm-ss):00-00

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Fereydoun Sajjadi/ SPE, AU 1617

SPE Art Unit

PAGE 3/3 * RCVD AT 3/16/2011 10:58:19 AM [Eastern Daylight Time] * SVR:W-PTOFAX-002/48 * DNIS:2723421 * CSID: * DURATION (mm-ss):00-00

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MAILED

JAN 10 2011

OFFICE OF PETITIONS

KATIA F DE ALMEIDA
BHERING, ALMEIDA & ASSOCIADOS
RUA BENEDITINOS 16, 11 ANDAR
RIO DE JANEIRO 20081-050 BZ BELIZE

In re Patent No. 6,818,402	:	
Issue Date: November 16, 2004	:	
Application No. 09/980,277	:	ON PETITION
Filed: March 29, 2002	:	
Patentee(s) Ana Lucia Teles Rabello et al	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 12, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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NELSON MULLINS RILEY &
SCARBOROUGH LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Patent No. 6,689,796	:	
Issue Date: February 10, 2004	:	
Application No. 09/980,497	:	NOTICE
Filed: May 10, 2002	:	
Attorney Docket No. SHW-008US	:	

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 Diane Goodwyn at (571) 272-6735.

Rajesh Krishnamurthy
for Thurman K. Page
Petitions Examiner
Office of Petitions

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MAILED
SEP 16 2011
OFFICE OF PETITIONS

THORPE NORTH & WESTERN, LLP.
P.O. Box 1219
SANDY UT 84091-1219

In re Patent No. 6,727,990	:	
Issued: 04/27/2004	:	
Application No. 09/980,515	:	NOTICE
Filed: 04/10/2002	:	
Attorney Docket No. 20366.US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 26, 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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32ND FLOOR
CHICAGO IL 60606

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Application of	:	
Progulske-Fox, et al.	:	
Application No. 09/980,845	:	ON PETITION
Filed: April 8, 2002	:	
Attorney Docket No.: 00-505-B	:	

This is a decision on the "Petition to under 37 CFR 1.182 Request for Withdrawal of Terminal Disclaimer" filed July 23, 2009.

The petition to withdraw the terminal disclaimer is **dismissed**.

A review of the application file history reveals that a "Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior Patent" was filed on April 10, 2009. On July 23, 2009, the instant petition was filed to withdraw the terminal disclaimer on the grounds that a non-final Office action was issued April 23, 2009, and that the terminal disclaimer may be unnecessary after additional amendments to the claims are made in response to the non-final rejection. Examiner Steele has determined that this request is premature as the double-patenting rejection made in the December 17, 2009, final rejection was addressed by the terminal disclaimer filed April 10, 2009, and, to date, no amendments to the claims have been made that would make the terminal disclaimer unnecessary.

The application is being directed to the Technology Center 1600, GAU 1639 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222. Questions relative to the need for the terminal disclaimer should be directed to Examiner Steele.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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CHICAGO IL 60606

MAILED
DEC 10 2010
OFFICE OF PETITIONS

In re Application of :
Handfield et al. :
Application No.: 09/980845 : ON PETITION
Filing or 371(c) Date: 04/08/2002 :
Attorney Docket Number: 00-505-B :

This is a decision on the "Petition Under 37 C.F.R. § 1.182 for Change of Order of Inventors' Names," filed on July 24, 2009.

The petition is **granted to the extent indicated herein**.

Petitioner requests a change in the order of the inventor's names as follows:

1 Martin Handfield
2. Ann Progulske-Fox
3. Jeannine L. Bradley
4. Jeffrey D. Hillman

Petitioner also avers that Jeannine L. Brady's name was typed as "Jeannine L. Bradley" on the declaration, but was signed correctly as "Jeannine L. Brady." Petitioner requests correction of inventor Brady's name.

As to the order of the inventor's names, the order of the names of the inventors has been be changed as follows:

1 Martin Handfield
2. Ann Progulske-Fox
3. Jeannine L. Bradley
4. Jeffrey D. Hillman

A Corrected Filing Receipt reflecting the change is enclosed herewith.

Regarding correction of inventor Brady's name, a review of the oath/declaration filed April 8, 2002 (Certificate of Mailing dated March 27, 2002), reveals that the name of inventor Brady was

typed as "Jeannine L. Brady," but was signed "L. Jeannine Brady." Applicant has also filed an Application Data Sheet ("ADS"), which has the name of inventor Brady typed as "Jeannine L. Brady."

The MPEP 605.04(b) provides that "[e]xcept for correction of a typographical or transliteration error in the spelling of an inventor's name, a request to have the name changed from the typewritten version to the signed version or any other corrections in the name of the inventor(s) will not be entertained, unless accompanied by a petition under 37 CFR 1.182 together with an appropriate petition fee.[1]"

The name of inventor Jeannine L. Bradley has been changed to Jeannine L. Brady and the name Jeannine L. Brady has been entered and made of record in the above-identified application.

The petition fee has been charged to Petitioner's deposit account as authorized in the present petition.

As to the ADS, Petitioner is further advised that

> Although 37 CFR 1.76 does not change the practice in MPEP § 201.03 and § 605.04(b) regarding correction of a typographical or transliteration error in the spelling of an inventor's name whereby all that is required is notification of the error to the Office, the Office strongly encourages the filing of an application data sheet or a supplemental application data sheet to correct a typographical or transliteration error in the spelling of an inventor's name. A supplemental oath or declaration is not required.
> If applicant merely files a statement notifying the Office of the typographical or transliteration error in the spelling of an inventor's name without submitting an application data sheet or a supplemental application data sheet, any patent to issue is less likely to reflect the correct spelling since the spelling of the inventor's name is taken from the oath or declaration, or any subsequently filed application data sheet.

This application is being referred to Technology Center Art Unit 1639 for continued examination in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

[1] This Office assumes that the error in inventorship is a typographical or transliteration error in the spelling of an inventor 's name. If this assumption is incorrect, Applicant should notify this Office immediately and submit the required petition and fee.

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/980,845	04/08/2002	1639	980	00-505-B	17	4

CONFIRMATION NO. 3701

CORRECTED FILING RECEIPT

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

OC000000044858692

Date Mailed: 12/08/2010

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)

Martin Handfield, Gainesville, FL;
Ann Progulske-Fox, Keystone Heights, FL;
Jeannine L. Brady, Gainesville, FL;
Jeffrey D. Hillman, Gainesville, FL;

Power of Attorney: The patent practitioners associated with Customer Number 020306

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US00/21340 08/04/2000
which claims benefit of 60/147,551 08/06/1999

Foreign Applications

If Required, Foreign Filing License Granted: 09/26/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/980,845**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Microbial polynucleotides expressed during infection of a host

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
FEB 10 2011
OFFICE OF PETITIONS

In re Application of	:	
Handfield et al.	:	
Application No.: 09/980845	:	ON PETITION
Filing or 371(c) Date: 04/08/2002	:	
Attorney Docket Number: 00-505-B	:	

This decision is in response to the petition under 37 CFR § 1.182 to change inventor's name in a patent application, filed January 18, 2011.

The MPEP 605.04(c), Inventor Changes Name, provides

> In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

The petition is hereby granted.

The name of inventor Jeannine L. Brady has been changed to L. Jeannine Brady and the name L. Jeannine Brady has been entered and made of record in the above-identified application.

A Corrected Filing Receipt is enclosed with the inventor's name corrected to L. Jeannine Brady.

The application is being referred to Technology Center Art Unit 1639 for continued examination in the normal course of business.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/980,845	04/08/2002	1639	980	00-505-B	17	4

CONFIRMATION NO. 3701

CORRECTED FILING RECEIPT

20306
MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

OC000000045905213

Date Mailed: 02/08/2011

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)

Martin Handfield, Gainesville, FL;
Ann Progulske-Fox, Keystone Heights, FL;
L. Jeannine Brady, Gainesville, FL;
Jeffrey D. Hillman, Gainesville, FL;

Power of Attorney: The patent practitioners associated with Customer Number 020306

Domestic Priority data as claimed by applicant

This application is a 371 of PCT/US00/21340 08/04/2000
which claims benefit of 60/147,551 08/06/1999

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: 09/26/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/980,845**

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Microbial polynucleotides expressed during infection of a host

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/16/11

TO SPE OF : ART UNIT 2476

SUBJECT : Request for Certificate of Correction for Appl. No.: 09981027 Patent No.: 7599334

CofC mailroom date: 05/10/11

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
You can fax the Directors/SPE response to 571-270-9990

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.

xApproved	**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

Ayaz Sheikh /AS/

2476

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
MAR 22 2011
OFFICE OF PETITIONS

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

In re Application of	:	
Johan Renes et al	:	
Application No. 09/981,213	:	ON PETITION
Filed: October 17, 2001	:	
Attorney Docket No. 5117US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 18, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 1, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 2, 2010.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $555 extension of time submitted on October 4, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3626 for further processing.

Irvin Dingle
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

BARNES & THORNBURG LLP
P.O. Box 2786
CHICAGO IL 60690-2786

MAILED
MAR 22 2011
OFFICE OF PETITIONS

In re Application of :
Taylor, et al. :
Application No. 09/981,444 : DECISION ON PETITION
Filed: October 17, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 920537-904943 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 11, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected

Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3205. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 2453 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/981,444	10/17/2001	2453	1604	920537-904943	26	12

CONFIRMATION NO. 5834

CORRECTED FILING RECEIPT

23644
BARNES & THORNBURG LLP
P.O. Box 2786
CHICAGO, IL 60690-2786

OC000000046630705

Date Mailed: 03/18/2011

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)

Graham Taylor, London, UNITED KINGDOM;
Stephen T. Gaito, West Midlands, UNITED KINGDOM;
Nigel R. Davis, London, UNITED KINGDOM;
Jonathan M. Durrant, Essex, UNITED KINGDOM;

Power of Attorney:

Thomas Smith--18243	William Lee Jr--26935
Gregory Beggs--19286	Glenn Ohlson--28455
Robert Conte--20354	Jeffrey Gray--33391
Gerald Geren--24528	David Brezina--34128
Dennis McWilliams--25195	Timothy Engling--39970

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/306,354 07/18/2001

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: 11/19/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/981,444**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Adaptive software interface

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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

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set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

ADVANCED MICRO DEVICES, INC.
C/O VEDDER PRICE P.C.
222 N.LASALLE STREET
CHICAGO, IL 60601

Mail Date: 10/07/2010

Applicant	: Edward G. Callway	: DECISION ON REQUEST FOR
Patent Number	: 7663632	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/981,484	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/17/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1587** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No.

MAILED
JUL 07 2011
OFFICE OF PETITIONS

PATENT LAW GROUP LLP
2635 NORTH FIRST STREET
SUITE 223
SAN JOSE CA 95134

In re Application of Howington Application No. 09/981,653 Filed: October 18, 2001 Attorney Docket No. MIS-P-104 Title: SYSTEM AND METHOD FOR CASINO MANAGEMENT	DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed June 14, 2011, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned due to the March 15, 2011 decision of the Board for Patent Appeals and Interferences which upheld the Examiner's rejections. Accordingly, the above-identified application became abandoned on May 16, 2011, the expiration of the period for seeking judicial review of this decision.[1] A Notice of Abandonment was mailed on May 31, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

1 See MPEP § 1216.

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further indicated that a divisional application has been filed.

Office records confirm that divisional application no. 13/160,420 was filed on June 14, 2011.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of divisional application number 13/160,420.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 See Rule 1.137(d).

3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : 11/26/2010
Patent No. : 7,241,486 B2
Serial No. : 09/981,676
Inventor(s) : Pirhohen
Issued : July 10, 2007
Title : **BONE GRAFTING MATERIALS**
Docket No. : **01942-00003**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Respecting the alleged error in the Assignee's name and/or address, Assignment Division's records reveal that the assignee's is printed according to Assignment Division's records, and that no corrective assignment has been filed in the Patent and Trademark Office. Therefore, no correction is in order here under Rule 1.322 or 1.323.

A petition under 37 CFR 1.183 is required, and should be directed to the attention of the Assistant Commissioner for Patents, using the following mailing address or FAX number.

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, *LIE*
ernest.white@uspto.gov
(571) 272-3385
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch

John P. Iwanicki
BANNER & WITCOFF, LTD.
28th Floor
28 State Street
Boston MA 02109

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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John P. Iwanicki
BANNER & WITCOFF, LTD.
28th Floor
28 State Street
Boston MA 02109

MAILED
OCT 12 2011
OFFICE OF PETITIONS

In re Patent No. 7,241,486	:	
Eija Pirhonen	:	
Issue Date: July 10, 2007	:	
Application No. 09/981,676	:	ON PETITION
Filed: October 16, 2001	:	
Attorney Docket No. 01942-00003	:	

This is in response to the REQUEST FOR RECONSIDERATION filed December 15, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the naming of an assignee on the front page of the above-identified patent by way of a Certificate of Correction. This request was recently forwarded to the undersigned for consideration.

The request is **GRANTED**.

By decision mailed November 26, 2010, a prior REQUEST FOR A CERTIFICATE OF CORRECTION was dismissed. The request included a Request for Certification of Correction Under 37 CFR 1.323, a draft Certificate of Correction, the fee set forth in 37 CFR 1.20(a) for issuance of a certificate of correction and an authorization to charge any other required fees.

On December 15, 2010, petitioner submitted their request to the Office of Petitions for decision. Petitioner states that the attorney incorrectly typed in "Inion Ltd., Tampere (FI)" as the assignee when in fact the application was not assigned.

[1] *See* MPEP 1309, subsection II, Official Gazette at 1283 OG 148 (June 22, 2004) or Final Register at 69 FR 29865 (May 26, 2004).

Petitioner requests a deletion of the assignee. On initial petition filed November 19, 2010, petitioner provided a Certificate of Correction for that purpose.

Both petitioner's evidence and Office records show that there is no assignment of the above-identified application.

Receipt of the required $100 certificate of correction fee on November 19, 2010 is acknowledged. The required $130 processing fee is being charged to the Deposit Account, as authorized.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6452861	2002-09-17	09981811	2001-10-19	ID 001711

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
◉ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	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.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6452861
Issue Date: September 17,2002
Application No. 09981811
Filed: October 19,2001
Attorney Docket No. 57454-226

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 7.5 year 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 27 2010

OFFICE OF PETITIONS

SHREEN K. DANAMRAJ
THE DANAMRAJ LAW GROUP, P.C.
PREMIER PLACE, STE. 1450
5910 NORTH CENTRAL EXPRESSWAY
DALLAS TX 75206

In re Patent No. 7,197,438	:	
Issue Date: March 27, 2007	:	
Application No. 09/981,954	:	NOTICE
Filed: October 18, 2001	:	
Attorney Docket No. 1263-0013US	:	

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 Diane C. Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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HUFFMAN LAW GROUP, P.C.
1900 MESA AVE.
COLORADO SPRINGS CO 80906

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,637,915	:	
Issued: October 28, 2003	:	
Application No. 09/982,322	:	ON PETITION
Filed: October 18, 2001	:	
Attorney Docket No. VONW0001R	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 22, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on October 29, 2011 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to 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

KENNETH C. SPAFFORD
708 SMITHSON AVENUE
ERIE PA 16511

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Application of :
Anthony :
Application No. 09/982,553 : ON PETITION
Filed: 17 October, 2001 :
Attorney Docket No X2YA0124U-US :

This is a decision on the petition filed on 16 September, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioners also are reminded to chart out the fees paid/fees due/balance due in their submission(s) to the Office. (*See, generally*: 37 C.F.R. §1.27, §1.28, MPEP §509.02 and 509-03.)

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized**.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Application No. 09/982,553

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course as is necessary.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-3-10

TO SPE OF : ART UNIT 2187

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/983417 Patent No.: 6598134

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: Check claims

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 – 9D40-A
Palm Location 7580

C. Yong
Certificates of Correction Branch
703-758-1571

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: _____

K. Elle
SPE

2187
Art Unit

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MAILED
SEP 20 2011
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Fish & Richardson PC
P.O.Box 1022
Minneapolis MN 55440

In re Patent No. 7,930,252 :
Issued: April 19, 2011 : DECISION ON PATENT TERM
Application No. 09/983,493 :
Filed: October 24, 2001 :
Atty. Dkt. No.: 16113-1353001 :

This is a decision on the petition filed on June 20, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1,445 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **DISMISSED.**

The above-identified application matured into U.S. Patent No. 7,930,252, with a revised patent term adjustment of 1,307 days. Patentee timely submitted this request for reconsideration of patent term adjustment (with required fee) on June 20, 2011, asserting that the correct number of days of Patent Term Adjustment is 1,455. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b) ("B delay"). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that subsequent to the filing of the request for continued examination, a Notice of Allowance was mailed December 3, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 138 day period from December 3, 2010 (the mailing date of the Notice of Allowance) until April 19, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 138 days and be increased from 423 to 561 days. Patentee concludes that the correct patent term adjustment is 1,445 days.

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 423 days based on the application having been filed under 35 U.S.C. 111(a) on October 24, 2001 and the patent not having issued as of the day after the three year date, October 25, 2004, and a request for continued examination under 132(b) having been filed on November 6, 2008. In other words, the 138-day period beginning on the date of mailing of the notice of allowance to the date of

issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)[1]. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

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[1] Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;

(2) Abandonment of the application; or

(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective

term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)[2]. Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing

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[2] Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the insurance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of

allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures[3] permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See, 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In view thereof, it is concluded that the patent term adjustment of 1,307 days indicated on the patent is correct.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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[3] Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7027490
Issue Date: April 11,2006
Application No. 09983775
Filed: October 25,2001
Attorney Docket No. P8285CX

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7027490	2006-04-11	09983775	2001-10-25	P8285CX

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2010-10-13
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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7076553	2006-07-11	09984019	2001-10-26	2070.001000H

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	◯ 3 ½ year	(2551)
◯ 7 ½ year	(1552)	◯ 7 ½ year	(2552)
◯ 11 ½ year	(1553)	◯ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2010-10-19
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. 7076553
Issue Date: July 11,2006
Application No. 09984019
Filed: October 26,2001
Attorney Docket No. 2070.001000H

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 19,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6625944	2003-09-30	09984102	2001-10-29	NIDI-008PUS

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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 Kondoudis/	Date (YYYY-MM-DD)	2012-04-11
Name	Michael Kondoudis	Registration Number	42758

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6625944
Issue Date: September 30,2003
Application No. 09984102
Filed: October 29,2001
Attorney Docket No. NIDI-008PUS

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 11,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 11,2012 . 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 : 11-2-10

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 09/984568 Patent No.: 7788172

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Check Claims

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

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

SPE /James Kramer/ ART UNIT 3693

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

JAMES C. LYDON
100 DAINGERFIELD ROAD
SUITE 100
ALEXANDRIA VA 22314

In re Patent No. 7,282,581
Issued: October 16, 2007
Application No. 09/985,454
Filed: November 2, 2001
Dkt. No.: TUR-123

: DECISION ON PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition filed on May 20, 2010 requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1243 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by 1243 days is **GRANTED**.

The Office acknowledges the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **1243** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,282,581

DATED : **October 16, 2007** **DRAFT**

INVENTOR(S) : Hovinen

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1658 days

Delete the phrase "by 1658 days" and insert – by 1243 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DIW Jan-12

DEPARTMENT OF THE NAVY
OFFICE OF COUNSEL
3824 STRAUSS AVENUE
SUITE 103, BLDG D-31
Indian Head MD 20640-5152

MAILED
JAN 25 2012
OFFICE OF PETITIONS

In re Patent No. 6,601,517	:	
Issue Date: 08/05/2003	:	
Application Number: 09/985,962	:	ON PETITION
Filing Date: 10/31/2001	:	
Attorney Docket Number: 83,432	:	

This is a decision on the petition under 37 CFR 1.378(c), filed on December 23, 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 5, 2011, for failure to timely pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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.

D Wood
Douglas I. Wood
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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
JAN 10 2012
OFFICE OF PETITIONS

In re Patent No. 6,692,528	:	
Issue Date: February 17, 2004	:	
Application No.: 09/986,371	:	NOTICE
Filed: November 8, 2001	:	
Attorney Docket No.: 4124-103P	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed December 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**. The change of status to a large entity has been entered and made of record.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,018,654 B2
Ser. No. : 09/986,426
Inventor(s) : Kirk et al.
Issued : Mar. 28, 2006
Title : PHARMACEUTICAL COMPOSITION CONTAINING AN ACTIVE AGENT IN AN AMINO ACID COPOLYMER STRUCTURE
Docket No. : 20342/1206920-US2
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101216

DATE : December 16, 2010

TO SPE OF : ART UNIT 1726

SUBJECT : Request for Certificate of Correction on Patent No.: 6,893,776

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:

/Patrick Joseph Ryan/
Supervisory Patent Examiner, Art Unit 1726

Receipt date: 12/28/2009 09986431 - GAU: 1726

PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Yoshinori NARUOKA, et al.

Appln. No.: 09/986,431

Confirmation No.: 5225

Filed: November 8, 2001

Docket No: Q67192

Group Art Unit: 1745

Examiner: Laura S. Weiner

Patent No.: 6,893,776

Issue Date: May 17, 2005

For: POSITIVE ACTIVE MATERIAL FOR NON-AQUEOUS ELECTROLYTE SECONDARY BATTERY AND NON-AQUEOUS ELECTROLYTE SECONDARY BATTERY COMPRISING SAME

REQUEST FOR CERTIFICATE OF CORRECTION

ATTN: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

OK TO ENTER: /LW/

/LW/ 12/16/2010

Sir:

Pursuant to the provisions of 37 C.F.R. § 1.322, please enter the attached seven (7) pages of Certificate of Correction.

Since the errors noted are believed to be the fault of the Patent and Trademark Office, we are not enclosing the $100.00 Certificate of Correction fee. If it is found to be to the contrary, please charge our Deposit Account No. 19-4880.

REQUEST FOR CERTIFICATE OF CORRECTION
U.S. Application No.: 09/986,431

Attorney Docket No.: Q67192

In view of the foregoing, issuance of the Certificate of Correction is respectfully requested.

Respectfully submitted,

Bruce E. Kramer
Registration No. 33,725

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860
WASHINGTON DC SUGHRUE/265550
65565
CUSTOMER NUMBER

Date: December 28, 2009

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,893,776

DATED: May 17, 2005

INVENTOR(S): Yoshinori NARUOKA

Junichi TORIYAMA

Masanao TERASAKI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please amend the second full paragraph in column 4 as follows:

The present invention also relates to a positive active material for the non-aqueous electrolyte secondary battery comprising a lithium-nickel composite oxide represented by the compositional formula $Li_aNi_{1-b-c-d}Co_bMn_cM_dO_2$ (in which M is at least one metal element selected from the group consisting of Al, Ti, W, Nb and Mo, the suffix a is not greater than 1.09($a \leqq 1.09$), the suffix b is from not smaller than 0.05 to not greater than 0.35 ($0.05 \leqq b \leqq 0.35$), the suffix c is from not smaller than 0.15 to not greater than 0.35 ($0.15 \leqq c \leqq 0.35$), and the suffix d is from greater than 0 to not greater than 0.35 ~~($0 \leqq d \leqq 0.35$)~~ ($0 < d \leqq 0.35$), with the proviso that the sum of b, c and d is from not smaller than 0.25 to not greater than 0.55 ($0.25 \leqq b+c+d \leqq 0.55$)) having a hexagonal structure. When subjected to the X-ray diffractometry with the CuK.alpha. ray, the lithium-nickel composite oxide exhibits an intensity ratio R ($=(I_{012}+I_{006})/I_{101}$) of not greater than 0.50, R being the ratio of the sum of the diffraction peak intensity I_{012} on the 012 plane and the diffraction peak intensity I_{006} on the 006 plane to the diffraction peak intensity I_{101} on the 101 plane.

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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,893,776

DATED: May 17, 2005

INVENTOR(S): Yoshinori NARUOKA

Junichi TORIYAMA

Masanao TERASAKI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please amend the third full paragraph of column 4 as follows:

By this constitution, the crystallinity of the positive active material represented by the compositional formula $Li_aNi_{1-b-c-d}Co_bMn_cM_dO_2$ ~~an~~ can be kept high. At the same time, the adhesivity of the positive active material to the electrically conductive material and the binder in the positive electrode compound can be kept to inhibit the increase of internal resistance, making it possible to secure the excellent capacity density and cycle life performance.

Please amend the last paragraph of column 6 bridging column 7 as follows:

The organic solvent for the liquid electrolyte to be used in the non-aqueous electrolyte secondary battery of the invention is not specifically limited. Examples of the organic solvents employable herein include ethers, ketones, lactones, ~~nitrites~~ nitriles, amines, amides, sulfur compounds, halogenated hydrocarbons, esters, carbonates, nitro compounds, phosphate compounds, and sulfolan-based hydrocarbons. Preferred among these organic solvents are ethers, ketones, esters, lactones, halogenated hydrocarbons, carbonates, and sulfolan-based compounds. Specific examples of these organic solvents include tetrahydrofuran, 2-methyltetrahydrofuran, 1,4-dioxane, anisole, monoglyme, 4-methyl-2-pentanone, ethyl acetate, methyl acetate, methyl propionate, ethyl propionate, 1,2-dichloroethane, .gamma.-butyrolactone, dimethoxyethane, methyl formate, dimethyl carbonate, methyl ethyl carbonate, diethyl carbonate, propylene carbonate, ethylene carbonate, vinylene carbonate, dimethylformamide, dimethyl sulfoxide, dimethylthioformamide, sulfolan, 3-methyl-sulfolan, trimethyl phosphate, triethyl phosphate, and mixture thereof. However, the present invention is not limited to these compounds. Preferred among these compounds are cyclic carbonates and cyclic esters. Even more desirable among these compounds are ethylene carbonate, propylene carbonate, methyl ethyl carbonate, and diethyl carbonate. These compounds may be used singly or in combination of two or more thereof.

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UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 6,893,776

DATED: May 17, 2005

INVENTOR(S): Yoshinori NARUOKA

Junichi TORIYAMA

Masanao TERASAKI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please amend the first full paragraph of column 7 as follows:

The electrolyte salt to be used in the non-aqueous electrolyte secondary battery of the invention is not specifically limited. In practice, however, $LiClO_4$, $LiBF_4$, $LiAsF_6$, CF_3SO_3Li, $LiPF_6$, $LiPF_3(C_2F_5)_3$, $LiN(CF_3SO_2)_2$, ~~$LiN(C_2F_5SO_2)2$~~ $LiN(C_2F_5SO_2)_2$, LiI, ~~LiAlCl4~~ $LiAlCl_4$, and mixture thereof may be used. Preferably, lithium salt such as $LiBF_4$ and $LiPF_6$ may be used singly or in admixture.

Please amend the second full paragraph of column 7 as follows:

As the electrolyte ~~for, the~~ for the present invention, a solid ionically-conductive polymer electrolyte may be used auxiliary. In this case, the structure of the non-aqueous electrolyte secondary battery may be a combination of a positive electrode, a negative electrode, a separator, an organic or inorganic solid electrolyte membrane as a separator, and the foregoing non-aqueous liquid electrolyte, or a combination of a positive electrode, a negative electrode, an organic or inorganic solid electrolyte membrane as a separator, and the aforementioned non-aqueous liquid electrolyte. A polymer electrolyte membrane made of polyethylene oxide, polyacrylonitrile, polyethylene glycol or modification product thereof has a light weight and flexibility and thus can be used as an electrode to be wound to advantage. Besides the polymer electrolyte, an inorganic solid electrolyte or a mixture of an organic polymer electrolyte and an inorganic solid electrolyte may be used.

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CUSTOMER NUMBER

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,893,776

DATED: May 17, 2005

INVENTOR(S): Yoshinori NARUOKA

Junichi TORIYAMA

Masanao TERASAKI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please amend the last paragraph in column 7 bridging column 8 as follows:

As the starting materials for the positive active material, a mixed carbonates represented by the compositional formula ~~$Li_aNi_{1-b-c}Co_bMn_cCO_2$~~ $\underline{Ni_{1-b-c}Co_bMn_cCO_3}$ (in which b and c vary from greater than 0 to smaller than 1 ($0<b<1$; $0<c<1$)) and lithium hydroxide were mixed. The mixture was calcined at the temperature set forth in Table 1 in an oxygen atmosphere for 24 hours, and then ground to obtain a lithium-nickel composite oxide represented by the compositional formula $Li_aNi_{1-b-c}Co_bMn_cO_2$ set forth in Table 1. As a result of analysis by the X-ray diffraction, it was confirmed that many of these composite oxides have a hexagonal structure. The composition of these composite oxides were then quantitatively analyzed by the ICP emission spectroscopy. The results are set forth in terms of compositional formula of composite oxide in Table 1.

MAILING ADDRESS OF SENDER:
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MODIFIED PTO/SB/44 (07-03)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,893,776

DATED: May 17, 2005

INVENTOR(S): Yoshinori NARUOKA

Junichi TORIYAMA

Masanao TERASAKI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please amend the second full paragraph in column 8 as follows:

~~All the positive active materials thus prepared exhibited a mean particle diameter D_{50} of 11.0 μm and a BET surface area of 0.60 m^2/g. For the determination of the mean particle diameter D_{50}, the distribution of volume of particles was measured by the laser diffraction scattering method. The mean particle diameter D_{50} corresponding to the volume of 50% was then determined. The BET surface area was measured by the N_2 gas absorption method. (Preparation of positive electrode and test battery) To a positive electrode compound obtained by mixing 87% of the aforementioned positive active material, 5% by weight of acetylene black and 8% by weight of a polyvinylidene fluoride was added N-methyl-2-pyrrolidone to prepare a viscous material. A foamed aluminum having a porosity of 90% was filled with this viscous material, dried in vacuo at a temperature of 150°C. to cause N-methyl-2-pyrrolidone to evaporate thoroughly, and then pressure-molded.~~

All the positive active materials thus prepared exhibited a mean particle diameter D_{50} of 11.0 μm and a BET surface area of 0.60 m^2/g. For the determination of the mean particle diameter D_{50}, the distribution of volume of particles was measured by the laser diffraction scattering method. The mean particle diameter D_{50} corresponding to the volume of 50% was then determined. The BET surface area was measured by the N_2 gas absorption method.

(Preparation of positive electrode and test battery)

To a positive electrode compound obtained by mixing 87% of the aforementioned positive active material, 5% by weight of acetylene black and 8% by weight of a polyvinylidene fluoride was added N-methyl-2-pyrrolidone to prepare a viscous material. A foamed aluminum having a porosity of 90% was filled with this viscous material, dried in vacuo at a temperature of 150°C. to cause N-methyl-2-pyrrolidone to evaporate thoroughly, and then pressure-molded.

MAILING ADDRESS OF SENDER:
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CUSTOMER NUMBER

MODIFIED PTO/SB/44 (07-03)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,893,776

DATED: May 17, 2005

INVENTOR(S): Yoshinori NARUOKA

Junichi TORIYAMA

Masanao TERASAKI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please amend the last full paragraph in column 8 as follows:

The test battery was charged to 4.3 V (with respect to lithium metal) at a ~~current: of~~ current of 1.0 mA/cm^2, and then discharged to 3.0 V at a current of 1.0 mA/cm^2. The discharge capacity at this point was then measured. Under these conditions, charge and discharge were then repeated. After 50 cycles of charge and discharge, the test battery was then measured for discharge capacity. The capacity retention was then calculated by dividing the discharge capacity by the initial discharge capacity.

In column 10, Table 2, please change the heading "$Li_aNi_{1-b-c}CO_bMn_cO_2$" to -- $Li_aNi_{1-b-c}Co_bMn_cO_2$ --.

In column 11, Table 3, please change the heading "$Li_aNi_{1-b-c}CO_bMn_cO_2$" to -- $Li_aNi_{1-b-c}Co_bMn_cO_2$ --.

MODIFIED PTO/SB/44 (07-03)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO: 6,893,776

DATED: May 17, 2005

INVENTOR(S): Yoshinori NARUOKA

Junichi TORIYAMA

Masanao TERASAKI

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please amend the first full paragraph in column 13 as follows:

Subsequently, $Li_{1.08}Ni_{0.53}Co_{0.14}Mn_{0.30}Al_{0.03}O_2$ was prepared as Example 26. The starting material of the positive active material was prepared by mixing $\cancel{Ni_{0.55}Co_{0.15}Mn_{0.30}Co_3}$ $\underline{Ni_{0.55}Co_{0.15}Mn_{0.30}CO_3}$ with aluminum hydroxide $Al(OH)_3$ and lithium hydroxide LiOH in an amount of 0.03 mols and 1.1 mols, respectively, per mol of $\cancel{Ni_{0.55}Co_{0.15}Mn_{0.30}Co_3}$ $\underline{Ni_{0.55}Co_{0.15}Mn_{0.30}CO_3}$, and then calcining the mixture at a temperature of 900° C. in an oxygen atmosphere for 24 hours. The positive active material was then used to prepare a positive electrode and a battery in the same manner as in Example 1. The battery thus prepared was then measured for the diffraction peak intensity ratio, capacity density, discharge capacity retention, exotherm starting temperature and exotherm. As a result, the diffraction peak intensity ratio R was 0.458, the capacity density was 158 mAh/g, the discharge capacity retention was 91%, the exotherm starting temperature was 253.0° C., and the exotherm was 357 J/g.

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 10/07/2010

Applicant	: Thomas Dean Robbins	: DECISION ON REQUEST FOR
Patent Number	: 7788693	: RECALCULATION of PATENT
Issue Date	: 08/31/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 09/986,662	: OF WYETH
Filed	: 11/09/2001	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STERNE KESSLER GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON DC 20005

MAILED
NOV 22 2010
OFFICE OF PETITIONS

In re Application	:
Zauderer, et al.	: DECISION ON APPLICATION FOR
Application No. 09/987,456	: PATENT TERM ADJUSTMENT
Filed: November 14, 2001	:
Attorney Docket No.	:
1821.0070004/EJH/T-M	:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)", filed July 6, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand one hundred thirty-three (1133) days to one thousand one hundred eighty-six (1186) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

On April 6, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is one thousand one hundred thirty-three (1133) days. On July 6, 2010, Applicant timely[1] submitted an application for patent term adjustment, asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is one thousand one hundred eighty-six (1186) days.

Applicants state that the patent issuing from the application is not subject to a terminal disclaimer.

---

[1] Applicants filed the application for patent term adjustment on the same date as the issue fee.

The Office initially determined a patent term adjustment of one thousand one hundred thirty-three (1133) days based on an adjustment for PTO delay of two hundred thirty-nine (239) days pursuant to 37 CFR 1.703(a)(1), fourteen (14) days pursuant to 37 CFR 1.703(a)(2), and one thousand one hundred fifty-four (1154) days pursuant to 37 CFR 1.703(b)(4), reduced by Applicant's delays of one hundred twenty-six (126) days pursuant to 37 CFR 1.704(b), and sixty-one (61), four (4), and eighty-three (83) days pursuant to 37 CFR 1.704(c)(8). The 126 days of Applicant delay are at issue.

Applicant argues that they should not have been assessed 126 days of delay, but rather only 66 days. The Office mailed a Restriction Requirement on September 10, 2003. Applicants filed a reply on October 10, 2003. However, Applicants state that the reply was misplaced, so Applicants re-filed the reply on December 11, 2003.[2] The Office mailed a Notice of Non-Compliant Amendment on February 11, 2004, to which Applicants filed a proper reply on February 13, 2004, and were assessed 126 days of delay pursuant to 37 CFR 1.704(c)(7). Applicants argue that the period of delay should not begin on October 11, 2003, but rather on December 12, 2003. Applicants state that to do otherwise would penalize them for filing their reply timely on October 10, 2003. In addition, Applicants argue that the Office should have incurred 63 days of delay for not "docketing" their response until December 11, 2003. Applicants' argument has been considered, but is not persuasive. Applicants were not penalized for filing their reply on October 10, 2003, but the issue was that Applicants' reply was not proper. Had Applicants filed a proper reply, they would not have incurred any delay under 37 CFR 1.704(c)(7). Moreover, there are no provisions in the rule for the Office to timely mail a Notice of Non-Compliant Amendment in instances where an applicant files a non-compliant reply.

In addition, Applicants point out that they should have been assessed additional delay of 70 days for filing a Amended Appeal Brief. Applicants filed an Appeal Brief on April 27, 2007. The Office mailed a Notice of Non-Compliant Appeal Brief on June 6, 2007, to which Applicants responded by filing a compliant Appeal Brief on July 6, 2007. Accordingly, pursuant to 37 CFR 1.704(c)(7), 70 days of Applicant delay should have been assessed.

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[2] The reply appears in the application file with a filing date of October 10, 2003.

Applicants also argue that additional Office delay should have been assessed due to the failure of the Office to issue the patent within three years. However, this argument is prematurely raised. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term applicants are entitled to for Office failure to issue the patent within 3 years. This is true even where a Request for Continued Examination (RCE) was filed (the computer will not undertake the 1.702(b) calculation until the actual date of issuance of the patent has been determined). Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d).

Lastly, a review of the file reveals that Applicants should have been assessed additional delay for filing a supplemental IDS on October 13, 2005. Applicants had previously filed an RCE on July 21, 2005. Accordingly, pursuant to 37 CFR 1.704(c)(8), applicant delay of eighty-four (84) days should have been assessed for this filing.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **nine hundred seventy-nine (979)** days (1407 days of PTO delay (1154+14+239) reduced by 428 (70+83+4+84+61+126) days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 09987456 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 09987456

Application Filing Date	11/14/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1407
A Delays	253	PTO Manual Adjustment	-154
B Delays	0	Applicant Delay (APPL)	274
C Delays	1154	Total PTA (days)	979

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
183	11/22/2010		P028	Adjustment of PTA Calculation by PTO		70	0
182	11/22/2010		P028	Adjustment of PTA Calculation by PTO		84	0
172	04/06/2010		MN/=.	Mail Notice of Allowance			0
171	04/05/2010		IREV	Issue Revision Completed			0
170	04/05/2010		DVER	Document Verification			0
169	04/05/2010		N/=.	Notice of Allowance Data Verification Completed			0
168	04/05/2010		INHN	Not Inherited			0
167	04/05/2010		DOCK	Case Docketed to Examiner in GAU			0
166	04/02/2010		MM327-E	Mail BOA miscellaneous communication to applicant			0
165	04/01/2010		M327-E	BOA miscellaneous communication to applicant			0
164	03/31/2010		CNTA	Notice of Allowability			0
158	03/29/2010	01/31/2007	MAPDR	Mail BPAI Decision on Appeal - Reversed	1154		91
157	03/29/2010		APDR	BPAI Decision - Examiner Reversed			0
156	02/17/2010		INHY	case Inherited			0
155	02/04/2010		APCH	Confirmation of Hearing by Appellant			0
154	01/14/2010		APNH	Notification of Appeal Hearing			0
148	05/05/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
147	05/04/2009		APAS	Assignment of Appeal Number			0
146	03/10/2009		MM327	Mail Miscellaneous Communication to Applicant			0
145	03/10/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
144	03/09/2009		APWD	Appeal Awaiting BPAI Docketing			0
141	03/06/2009		MM327	Mail Miscellaneous Communication to Applicant			0
140	03/04/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
138	03/04/2009		APRD	Order Returning Undocketed Appeal to the Examiner			0
137	08/12/2008		APWD	Appeal Awaiting BPAI Docketing			0
136	08/07/2008		DOCK	Case Docketed to Examiner in GAU			0
139	05/21/2008		IDSC	Information Disclosure Statement considered			0
135	05/21/2008		M844	Information Disclosure Statement (IDS) Filed			0
134	05/21/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
133	12/27/2007		MM327	Mail Miscellaneous Communication to Applicant			0
132	12/21/2007		M327	Miscellaneous Communication to Applicant - No Action Count			0
124	12/03/2007		IDSC	Information Disclosure Statement considered			0
123	12/03/2007		M844	Information Disclosure Statement (IDS) Filed			0
122	12/03/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
142	11/16/2007		IDSC	Information Disclosure Statement considered			0
120	11/16/2007		M844	Information Disclosure Statement (IDS) Filed			0
119	11/16/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
118	10/23/2007		FWDX	Date Forwarded to Examiner			0
131	10/16/2007		MRBNE	Mail Reply Brief Noted by Examiner			0
115	10/16/2007		MRBNE	Mail Reply Brief Noted by Examiner			0
114	10/16/2007		MAPE2	Mail Supplemental Examiner's Answer			0
130	10/15/2007		RBNE	Reply Brief Noted by Examiner			0
113	10/15/2007		APE2	2nd or Subsequent Examiner's Answer to Appeal Brief			0
112	10/15/2007		RBNE	Reply Brief Noted by Examiner			0
117	10/10/2007		APRB	Reply Brief Filed			0
116	10/10/2007		APOH	Request for Oral Hearing			0
111	09/05/2007		TCRD	Return of Undocketed appeal to the TC			0
110	09/05/2007		PACC	Exam. Ans. Review Complete			0
143	08/08/2007		IDSC	Information Disclosure Statement considered			0
109	08/08/2007		M844	Information Disclosure Statement (IDS) Filed			0
107	08/08/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
106	08/06/2007		APEA	Examiner's Answer to Appeal Brief			0
105	08/02/2007		APBR	Appeal Brief Review Complete			0
104	08/02/2007		FWDX	Date Forwarded to Examiner			0
103	07/06/2007		AP.B	Appeal Brief Filed			0
102	06/06/2007		APBD	Notice -- Defective Appeal Brief			0
99	06/04/2007		APBR	Appeal Brief Review Complete			0
101	04/27/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
100	04/27/2007		AABR	Amendment After Brief			0
97.1	04/27/2007		APBI	Defective / Incomplete Appeal Brief Filed			0
97	04/27/2007		AP.B	Appeal Brief Filed			0
96	04/27/2007		XT/G	Request for Extension of Time - Granted			0
94	02/28/2007		MAPCP	Mail Appeals conf. Proceed to BPAI			0
93	02/26/2007		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
92	01/31/2007		AP.C	Request for Pre-Appeal Conference Filed			0
91	01/31/2007		N/AP	Notice of Appeal Filed			0
90	10/31/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
95	10/16/2006		IDSC	Information Disclosure Statement considered			0
89	10/16/2006		RCAP	Reference capture on IDS			0
88.7	10/16/2006	07/25/2006	M844	Information Disclosure Statement (IDS) Filed		83	82
88	10/16/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
87	10/16/2006		CTFR	Final Rejection			0
85	08/04/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
83	08/04/2006		FWDX	Date Forwarded to Examiner			0
86	07/25/2006		IDSC	Information Disclosure Statement considered			0
84.7	07/25/2006		M844	Information Disclosure Statement (IDS) Filed			0
84	07/25/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
82	07/25/2006	07/21/2006	A...	Response after Non-Final Action		4	69
81	07/25/2006		XT/G	Request for Extension of Time - Granted			0
80	07/25/2006		RCAP	Reference capture on IDS			0
69	04/21/2006		MCTNF	Mail Non-Final Rejection			0
68	04/17/2006		CTNF	Non-Final Rejection			0
63	02/09/2006		FWDX	Date Forwarded to Examiner			0
61	02/09/2006		FWDX	Date Forwarded to Examiner			0
59	02/09/2006		ABN9	Disposal for a RCE / CPA / R129			0
67	02/02/2006		IDSC	Information Disclosure Statement considered			0
65	02/02/2006		RCAP	Reference capture on IDS			0
64.7	02/02/2006		M844	Information Disclosure Statement (IDS) Filed			0

64	02/02/2006		WIDS	Information Disclosure Statement (IDS) Filed				0
62	02/02/2006		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE				0
60	02/02/2006		RCEX	Request for Continued Examination (RCE)				0
58	02/02/2006		BRCE	Workflow - Request for RCE - Begin				0
57	02/02/2006		FRCE	Workflow - Request for RCE - Finish				0
56	02/02/2006		BRCE	Workflow - Request for RCE - Begin				0
55	12/02/2005		LET.	Miscellaneous Incoming Letter				0
54	11/02/2005		MCTFR	Mail Final Rejection (PTOL - 326)				0
53	10/31/2005		CTFR	Final Rejection				0
66	10/13/2005		IDSC	Information Disclosure Statement considered				0
52	10/13/2005		RCAP	Reference capture on IDS				0
51.7	10/13/2005		M844	Information Disclosure Statement (IDS) Filed				0
51	10/13/2005		WIDS	Information Disclosure Statement (IDS) Filed				0
49	07/27/2005		FWDX	Date Forwarded to Examiner				0
47	07/27/2005		FWDX	Date Forwarded to Examiner				0
45	07/27/2005		ABN9	Disposal for a RCE / CPA / R129				0
77	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
76	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
75	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
74	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
73	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
72	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
71	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
70	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
50	07/21/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received				0
48	07/21/2005		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE				0
46	07/21/2005		RCEX	Request for Continued Examination (RCE)				0
44	07/21/2005		BRCE	Workflow - Request for RCE - Begin				0
43	04/21/2005	04/07/2005	MCTFR	Mail Final Rejection (PTOL - 326)	14			40
42	04/18/2005		CTFR	Final Rejection				0
41	12/22/2004		FWDX	Date Forwarded to Examiner				0
40	12/07/2004		A...	Response after Non-Final Action				0
39	12/07/2004		RCAP	Reference capture on IDS				0
38.7	12/07/2004		M844	Information Disclosure Statement (IDS) Filed				0
38	12/07/2004		WIDS	Information Disclosure Statement (IDS) Filed				0
37	12/07/2004		WAMD	Workflow incoming amendment IFW				0
36	09/07/2004		MCTNF	Mail Non-Final Rejection				0
35	09/02/2004		CTNF	Non-Final Rejection				0
34.7	07/28/2004	05/28/2004	M844	Information Disclosure Statement (IDS) Filed			61	32
34	07/28/2004		WIDS	Information Disclosure Statement (IDS) Filed				0
33	06/15/2004		FWDX	Date Forwarded to Examiner				0
32	05/28/2004		ELC.	Response to Election / Restriction Filed				0
31	05/28/2004		WAMD	Workflow incoming amendment IFW				0
30	04/28/2004		MCTRS	Mail Restriction Requirement				0
29	04/27/2004		CTRS	Requirement for Restriction / Election				0
28	02/25/2004		FWDX	Date Forwarded to Examiner				0
27	02/13/2004	10/10/2003	ELC.	Response to Election / Restriction Filed			126	21
26	02/11/2004		NINA	Mail Notice of Informal or Non-Responsive Amendment				0
25	02/11/2004		FWDX	Date Forwarded to Examiner				0
23	12/19/2003		TSSA	IFW Amended case processing Complete				0
22	12/19/2003		FWDX	Date Forwarded to Examiner				0
24	12/11/2003		SA..	Supplemental Response				0
21.1	10/10/2003		A.L.	Informal or Non-Responsive Amendment after Examiner Action				0
21	10/10/2003		ELC.	Response to Election / Restriction Filed				0
20	09/10/2003	01/14/2003	MCTRS	Mail Restriction Requirement	239			1
19	09/08/2003		CTRS	Requirement for Restriction / Election				0
79	05/01/2003		RCAP	Reference capture on IDS				0
18.7	05/01/2003		M844	Information Disclosure Statement (IDS) Filed				0
18	05/01/2003		WIDS	Information Disclosure Statement (IDS) Filed				0
16.7	11/06/2002		M844	Information Disclosure Statement (IDS) Filed				0
16	11/06/2002		WIDS	Information Disclosure Statement (IDS) Filed				0
15	10/04/2002		DOCK	Case Docketed to Examiner in GAU				0
14	07/12/2002		DOCK	Case Docketed to Examiner in GAU				0
13	06/12/2002		A.PE	Preliminary Amendment				0
12	06/05/2002		DOCK	Case Docketed to Examiner in GAU				0
78	05/28/2002		RCAP	Reference capture on IDS				0
17.7	05/28/2002		M844	Information Disclosure Statement (IDS) Filed				0
17	05/28/2002		WIDS	Information Disclosure Statement (IDS) Filed				0
11	04/27/2002		DOCK	Case Docketed to Examiner in GAU				0
10	03/22/2002		OIPE	Application Dispatched from OIPE				0
9	03/22/2002		COMP	Application Is Now Complete				0
7	02/21/2002		FLFEE	Payment of additional filing fee/Preexam				0
6	02/21/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic				0
5	01/23/2002		CRFE	CRF Is Good Technically / Entered into Database				0
4	12/21/2001		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned				0
3	11/19/2001		SCAN	IFW Scan & PACR Auto Security Review				0
2	11/19/2001		SCAN	IFW Scan & PACR Auto Security Review				0
1	11/14/2001		IEXX	Initial Exam Team nn				0

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PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6976241	2005-12-13	09987478	2001-11-14	P 273247 P10301

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2010-10-13
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. 6976241
Issue Date: December 13,2005
Application No. 09987478
Filed: November 14,2001
Attorney Docket No. P 273247 P10301

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROSSI, KIMMS & McDOWELL LLP.
20609 Gordon Park Square, Suite 150
Ashburn VA 20147

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of:	:	
Shui-On Leung et al.	:	
Application No. 09/988,013	:	PETITION DECISION
Filed: November 16, 2001	:	
Attorney Docket No. IMMU:014US2	:	

This is a decision on the petition filed August 30, 2010 which is being treated as a petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.131.

The petition is **DISMISSED.**

The application as-filed identified two inventors as the inventive entity: Shui-On Leung and Hans Hansen. Petitioner requests that the Office accept a declaration under 37 CFR 1.131 by Hansen without requiring a similar declaration signed by Leung who is alleged to be unavailable.

MPEP 715.04(I) states in part:

> Where one or more of the named inventors of the subject matter of the rejected claim(s) (who had originally signed the oath or declaration for patent application under 37 CFR 1.63) is now unavailable to sign an affidavit or declaration under 37 CFR 1.131, the affidavit or declaration under 37 CFR 1.131 may be signed by the remaining joint inventors provided a petition under 37 CFR 1.183 requesting waiver of the signature of the unavailable inventor be submitted with the affidavit or declaration under 37 CFR 1.131. Proof that the non-signing inventor is unavailable or cannot be found similar to the proof required for a petition under 37 CFR 1.47 must be submitted with the petition under 37 CFR 1.183 (see MPEP § 409.03(d)). Petitions under 37 CFR 1.183 are decided by the Office of Petitions (see MPEP § 1002.02(b)).

Since petitioner is alleging that Leung is refusing to sign the declaration, at the very least, petitioner should mail correspondence to the non signing inventor's last known address, return receipt and/or forwarding address requested. If a forwarding address is provided, petitioner should then mail a complete copy of the declaration to Leung's address, return receipt requested, along with a cover letter of instructions which includes a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct.

It is important that the forthcoming communication contain statements of fact as opposed to conclusions.

Petitioner has not demonstrated that the non-signing inventor, Leung, refuses to sign the declaration. The petition references a declaration by Bryan Wilson which indicates that Gregory Lantier informed Wilson that Leung refused to sign the 131 declaration.

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration **by the party to whom the refusal was made**. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration. Therefore, based on the information given above, an affidavit or declaration by Gregory Lantier would be required.

When it is concluded that an inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an inventor gives a reason for refusing to sign the declaration, that reason should be stated in the affidavit or declaration.

Telephone inquiries concerning this matter should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

Rossi, Kimms & McDowell LLP
20609 Gordon Park Square
Suite 150
Ashburn VA 20147

MAILED
NOV 17 2011
OFFICE OF PETITIONS

In re Application of Shui-on Leung and Hans Hansen Application No. 09/988,013 Filed: November 16, 2001 Attorney Docket No. IMMU-0014US2 Title: IMMUNOCONJUGATES AND HUMANIZED ANTIBODIES SPECIFIC FOR B-CELL LYMPHOMA AND LEUKEMIA CELLS	:	DECISION ON RENWEED PETITION PURSUANT TO 37 C.F.R. § 1.183

This is in response to the renewed petition filed pursuant to 37 C.F.R. § 1.183 on October 19, 2011, seeking the waiver of the requirement present in 37 C.F.R. § 1.131 that each of the inventors sign the declaration of prior inventorship.

This renewed petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED.**

BACKGROUND

The above-identified application was filed on November 16, 2001. On April 30, 2002, a 37 C.F.R. § 1.63 declaration signed by each joint inventor was submitted to the Office. On August 30, 2010, Petitioner submitted both a declaration pursuant to 37 C.F.R. § 1.131 that has been executed by the second-named inventor and an original petition pursuant to 37 C.F.R. § 1.183, seeking the waiver of the requirement present in 37 C.F.R. § 1.131 that the first-named inventor sign the declaration of prior inventorship.

The original petition pursuant to 37 C.F.R. § 1.183 was dismissed via the mailing of a decision on December 13, 2010.

It is noted that on January 4, 2011, a non-final Office action was mailed which discusses this issue on pages three and four of the same.

Petitioner has filed this renewed petition, seeking the acceptance of the Rule 1.131 declaration without the signature of inventor Leung. Petitioner has indicated that the signature of inventor Leung cannot be obtained as he cannot be located.[1]

RELEVANT REGULATIONS AND PORTION OF THE MPEP

37 C.F.R. § 1.183 sets forth, *in toto*:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 C.F.R. § 1.131(a) sets forth, *in pertinent part*:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

ANALYSIS

Here, there has not been a party qualified under 37 C.F.R. §§ 1.42, 1.43, or 1.47. In addition, Petitioner does not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the revised Rule 1.131 declaration include all of the joint inventors.

This renewed petition cannot be granted, as although Petitioner has asserted the existence of an extraordinary situation such that justice requires the waiver of the requirement that the Rule 1.131 declaration be executed by

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1 See renewed petition, pages three and four and concurrently submitted declaration of Ms. McDowell, page 2.

each joint inventor, this assertion has not been established. A discussion follows.

While Rule 1.47(a) is not directly applicable to the current set of facts, it does provide an analogous analysis as to the required showing to rectify situations involving a joint inventor who cannot be located to execute a declaration. As such, a Rule 1.47(a) analysis will be applied to determine whether an extraordinary situation is present, such that justice requires the waiver of the rules in this situation. The applicable elements are as follows:

(1) Petitioner must provide a statement of the last known address of each non-signing inventor;

(2) Petitioner must provide either
   a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to each non-signing inventor for review and proof that each non-signing inventor refuses to join in the application or
   b) proof that each non-signing inventor cannot be found or reached after diligent effort.

Petitioner has satisfied the first requirement above. The second requirement has not been satisfied.

Petitioner has asserted that a package was sent to the last known address of the non-signing inventor, and that she was informed "by Federal Express that Dr. Leung had moved..."[2] Petitioner then sent a second package to that same address using a different mail carrier, in the hopes that the second mail carrier would have a forwarding address for the non-signing inventor, however this second mailing was returned to Petitioner with the notation "addressee unknown."[3]

It follows that subsequent to the mailing of the decision on the original petition, Petitioner learned that the last known address is no longer valid. Consequently, with this renewed

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2 Petition, page three. See also concurrently submitted declaration of Ms. McDowell, page two and Appendix A which contains a copy of a FedEx delivery label with the notation "moved" written thereon.
3 Petition, page four. See also concurrently submitted declaration of Ms. McDowell, page two and Appendix B which contains a copy of a USPS delivery label with the notation "Address unknown" placed thereon.

petition, Petitioner has asserted that the non-signing inventor cannot be located. However, as *Petitioner has set forth that the non-signing joint inventor cannot be located, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor, and* **the petition is silent as to any search that might have been performed for Mr. Leung**: the sending of a package in the hopes that the addressee has left a forwarding address with the mail carrier does not rise to the level of constituting a search. There is no indication that Petitioner attempted to verify the address of the non-signing inventor or to determine her forwarding address, and to send the complete application papers to that address for consideration by the inventor, other than the aforementioned mailing of the second package. Petitioner must provide a showing detailing the attempts that were made to obtain a forwarding address or to locate the non-signing inventor by means such as through E-mail, telephone, and the Internet. If this search is sufficiently broad so as to provide a reasonable opportunity to locate this individual, and it is then averred that such attempts failed, then Petitioner will have provided the necessary proof that the non-signing inventor cannot be reached. Details of the efforts to locate the non-signing inventor are to be set forth in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Prior to filing a second renewed petition, Petitioner must attempt to locate the non-signing inventor.

If Petitioner is able to secure the signature of this individual on the Rule 1.131 declaration, the submission of the same would be considered fully responsive to this decision.

If Petitioner is not able to secure the signature of this individual on the Rule 1.131 declaration, Petitioner must then indicate the steps taken to obtain this individual's signature on the Rule 1.131 declaration.

CONCLUSION

The time period for filing a second renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.183." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any subsequent filing pertaining to this matter should indicate that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

The general phone number for the Office of Petitions that should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[8] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300: please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
8 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 of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MURPHY & KING, P.C.
1055 THOMAS JEFFERSON STREET, NW
SUITE 400
WASHINGTON DC 20007

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of	:	
Sini	:	
Application No. 09/988,155	:	DECISION
Filed/Deposited: 19 November, 2001	:	
Attorney Docket No. 5231-053-US02	:	

This is a decision on the petition filed on 28 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the second Notice of Non-Compliant Appeal Brief mailed on 23 March, 2009, with reply due on or before 23 April, 2009.

The application went abandoned by operation of law after midnight 23 April 2009.

The Office mailed the Notice of Abandonment on 20 October, 2010.

On 28 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of a supplement to the Appeal Brief, and made the statement of unintentional delay.

The record (including the petition filed on 28 January, 2011) does not necessitate a finding that the delay between midnight 23 April, 2009 (the date of abandonment), and 28 January, 2011 (the date of the filing of grantable petition), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Petitioner/Counsel Michael A. Schwartz (Reg. No. 40,161) when accepting Petitioners' representation that the delay in filing the response was unintentional.[1]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.[4]))

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[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. §1.137(b) to the Patent and Trademark Office).

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2163 for further processing (*e.g.*, a supplementary answer by the Examiner) in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) 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

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[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[5] 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 attdance 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.

UNITED STATES 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
OCT 17 2011
OFFICE OF PETITIONS

In re Patent No. 6,698,739	:	
Issue Date: March 2, 2004	:	
Application No. 09/988,843	:	NOTICE
Filed: November 19, 2001	:	
Attorney Docket No. MC9573P	:	

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 Diane Goodwyn at (571) 272-6735.

Ramesh Krishnamurthy
for 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
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GREENBERG TRAURIG (NY)
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

MAILED
OCT 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Burakoff et al.	:	
Application No. 09/989240	:	
Filing or 371(c) Date: 11/20/2001	:	ON PETITION
Pat. Num.: 7028190	:	
Issue Date: 04/11/2006	:	
Title of Invention:	:	
METHOD AND SYSTEM FOR	:	
ELECTRONIC DELIVERY OF	:	
SENSITIVE INFORMATION	:	

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.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAILED

OCT 25 2010

OFFICE OF PETITIONS

VIERRA MAGEN MARCUS & DENIRO LLP
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

In re Patent No. 6,887,120	:	
Issue Date: May 3, 2005	:	
Application No. 09/989,696	:	ON PETITION
Filed: November 20, 2001	:	
Patentee(s) Joel B. Shamitoff	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 19, 2010, 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.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Joel B. Shamitoff
29 Tall Hedge
Irvine, CA 92603

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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MAILED
APR 13 2011
OFFICE OF PETITIONS

LAW OFFICE OF ERIC B. ALSPAUGH
26895 ALISO CREEK ROAD SUITE B 223
ALISO VIEJO CA 92656

In re Patent No. 6,629,454 :
Issue Date: October 7, 2003 :
Application No. 09/990,234 : ON PETITION
Filed: November 21, 2001 :
Attorney Docket No: **178US01** :

This is a decision on the petition filed March 1, 2011, under 37 CFR 1.378(b), 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 October 7, 2003. The first maintenance fee due could have been paid during the period from October 7, 2006 to April 9, 2007 or, with a surcharge during the period from April 10, 2007 to October 7, 2007. Additionally, the second maintenance fee is due April 7, 2011. Accordingly, this patent expired on October 7, 2007, 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) above.

Petitioner, asserts that the delay was unavoidable because the USPTO was inadvertently not updated with his change of address, thus mail forwarding from US mail must not have lasted long enough for any notice of maintenance fees coming due.

"The move and failure to account for the change of address notice has unavoidably resulted in the abandonment of the patent". Petitioner argues that he did not receive notice of maintenance fees due and thus did not know of the requirement to pay a maintenance fee.

The Commissioner may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable".[1] 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").[2] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[3] In this regard:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[4]

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

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[1] 35 U.S.C. § 41(c)(1).

[2] 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)).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

[4] 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).

have taken steps to ensure the timely payment of such maintenance fees.[5] 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.[6]

The showing of record therefore has been considered, but petitioner's lack of knowledge of the need to pay a maintenance fee does not rise to the level of unavoidable delay.[7]

Under the statutes and regulations, the lack of knowledge of the requirement to pay the maintenance is not unavoidable. The requirement to pay maintenance fees is printed on the face of the patent and even in the absence of being told or even reminded of the need to pay the maintenance fees to maintain the patent in full force and effect, if the patent owner had read the patent, he would have known of the maintenance fee requirements. Furthermore, under the statutes and regulations, the U.S. Patent and Trademark Office (USPTO) has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee is due. It is solely the responsibility of the patentee to assure that the maintenance fee is paid timely to prevent expiration of the patent. The failure to receive a 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 payment a maintenance fee from the patentee to the USPTO.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[5] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[6] Id.

[7] See In Re Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988), aff'd Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990); aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991), cert. denied, 60 U.S.L.W. 3520 (January 27, 1992). See also "Final Rules for Patent Maintenance Fees," 49 Fed. Reg. 34716, 34722-23 (Aug. 31, 1984).

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/990,402	11/21/2001	William K. Slate II	AAA-003	3669

1473 7590 03/07/2011
ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

EXAMINER
AUGUSTIN, EVENS J

ART UNIT	PAPER NUMBER
3621	

NOTIFICATION DATE	DELIVERY MODE
03/07/2011	ELECTRONIC

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.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPatentMail@ropesgray.com
USPatentMail2@ropesgray.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

In re Application of: Slate et al. Application No. 09/990,402 Filed: November 21, 2001 For: ELECTRONIC SYSTEMS AND METHODS FOR DISPUTE MANAGEMENT	:	**DECISION ON PETITION FILED UNDER 37 CFR 1.181**

This is in response to the petition under 37 CFR 1.182 received April 18, 2002 requesting the entry of drawings filed January 22, 2002. The delay in treating this petition is regretted.

The petition filed April 18, 2002 is a resubmission of a petition originally filed January 22, 2002. A review of the file indicates that the original petition was received. The drawings were accepted, and a notice to that affect was mailed to the applicant on June 24, 2002 (a copy of which is attached hereto).

In light of the fact that the drawings submitted January 22, 2002 have been accepted, applicants' petition requesting entry of the drawings is **dismissed as moot**.

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

Attachment: June 24, 2002 communication to applicant

09990402 .013102

UNITED STATES
PATENT AND
TRADEMARK OFFICE

Commissioner for Patents
Washington, DC 20231
www.uspto.gov

6/24/02

Fish and Neave
50th Floor
1251 Avenue of the Americas
New York NY 10020-1105

Dear Applicant:

The Box PGPub replacement drawings for application number 09/990,402 received on 1/31/02 by the U. S. Patent and Trademark Office will be included for patent publication.

Telephone inquiries should be directed to Customer Service, Office of Initial Patent Examination, at 703-308-1202.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120403

DATE : April 3, 2012

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction on Patent No.: 6837436

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Michael G. Lee **Art Unit** 2876

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Wong, Cabello, Lutch, Rutherford & Brucculeri, LLP
20333 SH 249 6th Floor
Houston, TX 77070

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
Melody Vos et al.	:	
Application No. 09/990,770	:	DECISION ON PETITION
Filed: November 21, 2001	:	TO WITHDRAW
Attorney Docket No. 01-006-US (149-0046US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2011.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Wong, Cabello, Lutch, Rutherford & Brucculeri, LLP, has been revoked by the assignee of the patent application on May 24, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brake, Hughes, Bellermann, LLP
c/o CPA Global
P.O. Box 52050
Minneapolis, MN 55402

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BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON OH 44311

MAILED
MAR 01 2012
OFFICE OF PETITIONS

In re Patent No. 6,644,551
Issue Date: November 11, 2003
Application No. 09/990,946
Filed: November 9, 2001
Attorney Docket No. GDC.POOO1.US

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 19, 2012, 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, 2011, for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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.

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

cc: WILLIAM R. MCCARTY
GIESECKE & DEVRIENT AMERICA, INC.
45925 HORSESHOE DRIVE,
DULLES, VA 20166

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DIW Dec-11

JAMES T. PETRIELLO
299 CHRISTIAN HERALD RD
VALLEY COTTAE NY 10989

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,630,755	:	
Issue Date: 10/07/2003	:	
Application Number: 09/991,004	:	LETTER DISMISSING PETITION
Filing Date: 11/16/2001	:	
For: GUARDIAN PERSONNEL	:	
PROTECTION SYSTEM	:	

This is a decision on the paper styled as a petition under 37 CFR 1.378(c), filed on November 21, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition cannot be considered on the merits because the fees have not been paid in the proper amount.

This patent expired on October 7, 2011 for failure to timely pay the second maintenance fee. A review of the record reveals that patentee submitted a total $2,440.00, of which $2,365.00 is intended for the maintenance fee and $75.00 towards the surcharge.

The maintenance fee required by § 1.20(f) is $1,425.00, and the surcharge required by § 1.20(i)(2) is $1,640.00. Accordingly, the total amount due is $3,065.00. Patentee must submit the balance due of $**625.00** ($3,065.00 - $2,440.00) in order for the petition to be considered on its merits.

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.

A renewed petition must be submitted with the balance due.

A reply to this communication **must** be submitted within ONE (1) MONTH of receipt of this communication. **This time period is not extendable.**[2]

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

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

DWood
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] 37 CFR 1.22(a).
[2] 37 CFR 1.181(f).

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DIW Feb-12

JAMES T. PETRIELLO
299 CHRISTIAN HERALD RD
VALLEY COTTAE NY 10989

MAILED
FEB 22 2012
OFFICE OF PETITIONS

In re Patent No. 6,630,755	:	
Issue Date: 10/07/2003	:	
Application Number: 09/991,004	:	ON PETITION
Filing Date: 11/16/2001	:	
For: GUARDIAN PERSONNEL	:	
PROTECTION SYSTEM	:	

This is a decision on the petition filed on January 3, 2012, which, for the reasons stated below, is treated as a petition under 37 CFR 1.378(b) and (c), to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is **dismissed.**

The petition under 37 CFR 1.378(c) is **granted.**

On October 7, 2003, the subject patent issued. The first maintenance fee was timely paid. The second maintenance fee could have been paid during the period from October 7, 2010 through April 7, 2011, or, with a surcharge during the period from April 8 through October 7, 2011. Accordingly, this patent expired at midnight on October 7, 2011, for failure to timely remit the second maintenance fee.

On November 21, 2011, a paper styled as a petition under 37 CFR 1.378(c) was filed, accompanied by the required maintenance fee and $75.00 towards the surcharge required by § 1.20(i)(2).

In response, on December 20, 2011, the Office mailed a letter dismissing the petition, stating that the petition could not be considered on the merits because both the maintenance fee and the surcharge had not been paid in the proper amount, and that a

renewed petition accompanied by payment of the balance due of $625.00 was required.

On January 3, 2012, the balance due of $625.00 was paid, accompanied by the form for a petition under 37 CFR 1.378(b).

PETITION UNDER 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, verified showing that the delay was unavoidable, since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1).

This petition lacks item (1) above.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

A late maintenance fee is considered under the same standard as that for reviving an abandoned application under 35 U.S.C. § 133 because 35 U.S.C. § 41(c)(1) uses identical language (i.e. "unavoidable delay").[2] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[3] In this regard:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of

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[1] 35 U.S.C. § 41(c)(1).

[2] 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)).

[3] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used by prudent and careful men in relation to their most important business").

> 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.[4]

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.[5] 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.[6]

The petition under 37 CFR 1.378(b) states that "Delay in payment was unintentional. I did not received a maintenance fee payment notice due."

Fee Reminder Notices are sent solely as a courtesy on the part of the Office and do not establish the time period during which maintenance fees can be paid. Likewise, the failure to receive a maintenance fee reminder does not constitute unavoidable delay. Nor does the patentee's lack of knowledge of the need to pay the maintenance fee constitute unavoidable delay.[7] It is solely the responsibility of the patentee to insure that the maintenance fee is paid timely to prevent expiration of the patent.

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[4] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (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).

[5] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[6] Id.

[7] See In re Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988), aff'd Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990); aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir. 1991), cert. denied, 60 U.S.L.W. 3520 (January 27, 1992). See also "Final Rules for Patent Maintenance Fees,) 49 Fed. Reg. 34716, 34722-23 (Aug. 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September, 25, 1984).

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.[8] Additionally, petitioners' preoccupation with other matters which took precedence over the above-identified maintenance fee does not constitute unavoidable delay.[9]

As petitioner have presented no evidence of unavoidable delay, the petition under 37 CFR 1.378(b) will be dismissed.

PETITION UNDER 37 CFR 1.378(c)

The patent issued on October 7, 2003. The window for payment of the second maintenance fee installment with a surcharge closed on October 7, 2011. Therefore, since this petition was filed within twenty-four (24) months of the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries should be directed to the undersigned at 571 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[8] 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).

[9] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

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FRANKLIN ZHIGANG ZHANG
4717 SPENCER STREET
TORRANCE, CA 90503

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Patent No. **7,003,291**	:	
Issue Date: February 21, 2006	:	
Application No. 09/991,508	:	DECISION ON PETITION
Filed: November 16, 2001	:	UNDER 37 CFR 1.377
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.377, filed April 9, 2010, to accept and record a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

In submitting maintenance fees and any necessary surcharges, identification of the patents for which maintenance fees are being paid must include a patent number and an application number. See 37 CFR 1.366(c).

A maintenance/surcharge fees intended for this patent were timely paid under 37 CFR 1.362(e). However, the payment was incorrectly applied by the Office.

Petitioner has provided evidence to support his assertion of timely payment of the 3½ year maintenance fee of $490 and the surcharge fee of $65 on November 2, 2009. Accordingly, the maintenance fee and surcharge will be accepted for the above patent.

The petition fee of $200 submitted on May 17, 2010 has been refunded to petitioner's credit card.

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

Thurman K. Page
Petitions Examiner
Office of Petitions

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IPSOLON LLP
111 SW COLUMBIA, SUITE 710
PORTLAND, OR 97201

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of
William Ho Chang et al
Application No. 09/992,183
Filed: November 18, 2001
Attorney Docket No. 1282-009/MMM

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 4, 2010, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 13, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Two (2) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

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) 272-3210. This application is being referred to Technology Center AU 2457 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Jon Reali
Rylander & Associates
P.O. Box 250
Vancouver, WA 98666

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MAILED
JUL 05 2011
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MICHAEL J. SPITSBERGEN
P.O.BOX 3423
RAMONA CA 92065

In re Patent No. 6,499,610	:	
Issue Date: December 31, 2002	:	
Application No. 09/992,508	:	ON PETITION
Filed: November 6, 2001	:	
Attorney Docket No. 51614-00001USP1	:	

This is a decision on the petition under 37 CFR 1.378(c), filed March 30, 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 December 31, 2010 for failure to pay the second maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition 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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6602103	2003-08-05	09992830	2001-11-15	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

◉ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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	/Steven Good/	Date (YYYY-MM-DD)	2011-08-30
Name	Steven Good		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6602103
Issue Date: August 5,2003
Application No. 09992830
Filed: November 15,2001
Attorney Docket No. 14211

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 30,2011 ,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 August 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
SEP 28 2011
OFFICE OF PETITIONS

LEVENFELD PEARLSTEIN LLC
Steven M Lubezny
2 NORTH LASALLE STREET
SUITE 1300
CHICAGO IL 60602

In re Patent No. 6,548,752	:	
Issue Date: April 15, 2003	:	ON PETITION
Application No.: 09/992,835	:	
Filed: November 16, 2001	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 13, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified application.

The petition is **GRANTED**.

This petition expired on April 16, 2011 for failure to pay the seven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period 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).

Rajesh Krishnamurthy

for Anthony Knight
Director
Office of Petitions

cc: Vadim Lubezny
Alpha-E, L.L.C.
7843 N. Nordica Ave.
Niles, IL 60714

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

SEP 30 2010

OFFICE OF PETITIONS

ORTIZ & LOPEZ, PLLC
P.O. BOX 4484
ALBUQUERQUE NM 87196-4484

In re Patent No. 7,011,638	:	
Issue Date: March 14, 2006	:	
Application No. 09/992,967	:	DECISION ON PETITION
Filed: November 14, 2001	:	
Attorney Docket No. 0607-1007	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 21, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 14, 2010 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Vern Maine & Associates
547 AMHERST STREET, 3RD FLOOR
NASHUA NH 03063-4000

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Patent No. 6,620,645	:	
Issued: 09/16/2003	:	
Application No. 09/993,587	:	NOTICE
Filed: 11/16/2001	:	
Attorney Docket No. GTSO1-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 14, 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) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **2-17-11**

TO SPE OF : ART UNIT **2627**

SUBJECT : Request for Certificate of Correction for Appl. No.: **09993779** Patent No.: **7830630**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square – 9D10-E
Palm Location 7580

Omega Lewis
Certificates of Correction Branch

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

DM 2/22/11 ☒ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

/Hoa T. Nguyen/ 2/23/11 — **SPE**

2627 — **Art Unit**

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

MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application
William Phelan et al.
Application No. 09/993,992
Filed: November 14, 2001
Attorney Docket No. **29804/36569A**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the "PETITION UNDER 37 C.F.R. § 1.705(B) - APPLICATION FOR PATENT TERM ADJUSTMENT" filed June 1, 2011. Applicant requests that the determination of patent term adjustment be corrected from 1069 days to 1027 days.

The application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED**.

On March 1, 2011 the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 1069 days. On June 1, 2011, applicant timely submitted the instant application for patent term adjustment[1]. Applicant maintains that a Notice of Appeal was filed on April 10, 2009, along with a Pre-Appeal Brief Request for Review and that the Patent Office responded with a Notice of Panel Decision from Pre-Appeal Brief Review on April 30, 2009, giving the Applicants a 3-month window for responding with either an Appeal Brief for a Request for Continued Examination (i.e. July 3, 2009). The Applicants filed a Request for Continued Examination with the Patent Office on September 10, 2009. Therefore, the Applicants should have a deduction of 42 days applied to the Patent Term Adjustment as reported in the Notice of Allowance.

Applicant's arguments have been considered, but not found to be persuasive. Applicants are advised that in this instance the filing of the RCE is not a reply under 37 CFR 1.704(b), is not a supplemental paper subject to reduction under 37 CFR 1.704(c)(8) and does not cure an omission under 37 CFR 1.704(c)(7).

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of

[1] PALM records indicate that the issue fee was also paid on June 1, 2011.

the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 1069 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COHEN & GRIGSBY, P.C.
625 LIBERTY AVENUE
PITTSBURGH PA 15222-3152

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Patent No. 6,705,326	:	
Issue Date: March 16, 2004	:	
Application No. 09/994,117	:	NOTICE
Filed: November 26, 2001	:	
Attorney Docket No. 01-378	:	

This is a notice regarding your request, July 29, 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. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7082107	2006-07-25	09994260	2001-11-26	42390.P19962

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	◯ 3 ½ year	(2551)
◯ 7 ½ year	(1552)	◯ 7 ½ year	(2552)
◯ 11 ½ year	(1553)	◯ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

◯ A sole patentee

◯ A joint patentee; I certify that I am authorized to sign this submission on behalf 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)	2010-10-13
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. 7082107
Issue Date: July 25,2006
Application No. 09994260
Filed: November 26,2001
Attorney Docket No. 42390.P19962

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 14,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 14,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 13

C. John Brannon
Woodard, Emhardt, Naughton,
Moriarty and McNett
Bank One Center/Tower
111 Monument Circle, Suite 3700
Indianapolis IN 46204-5137

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Application of	:	
Harold Bennett	:	DECISION ON PETITION
Application No. 09/994,560	:	
Filed: November 27, 2001	:	
Atty Docket No. 31088-2	:	

This is a decision on the RENEWED PETITION UNDER 37 C.F.R. § 1.137(B) filed June 8, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the final Office action mailed January 15, 2003. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension of time considered obtained, this application became abandoned effective April 16, 2003. A courtesy Notice of Abandonment was mailed on November 28, 2003.

By decision mailed April 8, 2009, the initial petition under 37 CFR 1.137(B), as well as petitions under 37 CFR 1.182 and 1.137(a), were dismissed. The petition under 37 CFR 1.182 was dismissed as the provisions of 37 CFR 1.181 and 1.137 provide for the relief requested. However, it was determined that withdrawal of the holding of abandonment pursuant to 37 CFR 1.181 was not warranted, given the extended period of

abandonment. Further, pursuant to the provisions of 37 CFR 1.137, it was concluded that the entire delay was neither established to be unavoidable or unintentional. Ultimately, the Office concluded that proof that the response was timely filed by facsimile supports a conclusion that the initial delay was unintentional. However, the Office requested additional explanation as to why the entire delay in filing a response to the Office action and in filing a petition should be considered unintentional (or unavoidable).

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this renewed petition, Petitioner has submitted additional statements and evidence to support a conclusion that the delay in filing a petition was unintentional. This evidence is submitted to show that applicant believed the application to be pending and that the delay in filing a petition was unintentional. Having considered the renewed petition, it is concluded that petitioner has established that the entire period of delay was unintentional within the meaning of 37 CFR 1.137(b). A copy of the reply to the Office action as applicant maintains it was previously filed May 15, 2003 (Exhibit A), accompanied the petition filed July 16, 2008. Pursuant to the authorization set forth in the revised petition filed December 2, 2008, the petition fee is being charged to Deposit Account No. 23-3030. No terminal disclaimer is required.

Thus, all requirements of §1.137(b) have now been satisfied.

Technology Center 1714 has been advised of this decision. The application is thereby forwarded to the Technology Center for further action in light of this decision, including consideration of the amendment dated May 15, 2003, submitted on petition filed July 16, 2008.

Telephone inquiries regarding this decision should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Chris Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh, PA 15213

MAILED
JAN 04 2012
OFFICE OF PETITIONS

In re Patent No. 7,285,915	:	
Issue Date: October 23, 2007	:	
Application No. 09/995,077	:	ON PETITION
Filed: November 26, 2001	:	
Patentees: Frederick Michael Mako, et. al.	:	

This is a decision on the petition under 37 CFR 1.378(c), filed on December 2, 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

MAILED

JAN 11 2011

OFFICE OF PETITIONS

David Fonda
2425 South 900 West
Salt Lake City, UT 84119

In re Patent of Czernichowski et al.	:	
Patent No. 6,924,608	:	
Issue Date: August 2, 2005	:	Decision on Petition
Application No. 09/995,125	:	
Filing Date: November 27, 2001	:	
Attorney Docket No. 6000.2.21	:	

This is a decision on the petition filed September 13, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The patent issued August 2, 2005. The last day of the grace period for paying the 3.5 year maintenance fee was Monday, August 3, 2009. This petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e). Therefore, this petition was timely filed under the provisions of 37 CFR 1.378(c).

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.

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. Specifically, David Fonda was not an attorney or agent of record at the time the patent expired. Nevertheless, the statement the delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. 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 instant petition was ever given a power of attorney or authorization of agent in this case. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a copy of this decision is being mailed to the

person who signed the instant petition, all future correspondence will be directed solely to the address currently of record until appropriate instructions are received to the contrary.

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

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,633,779	2003-10-14	09/995,194	2001-11-27	0607-1003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf 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	/KERMIT LOPEZ/	Date (YYYY-MM-DD)	2011-10-26
Name	Kermit Lopez	Registration Number	41953

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6633779
Issue Date: October 14,2003
Application No. 09995194
Filed: November 27,2001
Attorney Docket No. 0607-1003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 26,2011 ,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 October 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.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6604840	2003-08-12	09995381	2001-11-27	N/A

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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	/Robert E. Thomas/	Date (YYYY-MM-DD)	2012-01-17
Name	Robert E. Thomas		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6604840
Issue Date: August 12,2003
Application No. 09995381
Filed: November 27,2001
Attorney Docket No. 50040

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 17,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year 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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Bracewell & Patterson, L.LP.
P.O. Box 61389
Houston TX 77208-1389

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application of	:	
POOLE, MICHAEL D.	:	
Application No. 09/995,903	:	DECISION ON PETITION
Filed: November 28, 2001	:	TO WITHDRAW
Attorney Docket No. **068458-000002**	:	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 **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

A review of the file record indicates that Jeffrey Whittle: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Robert Cook has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

All attorneys/agents associated with the Customer Number 35979 does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Michael Poole at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MICHAEL POOLE, M.D.**
3106 SACKETT
HOUSTON TX 77098

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MERCK
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED

OCT 19 2010

OFFICE OF PETITIONS

In re Application of
PALANI et al.
Application No. 09/995,949
Filed: 11/28/2001
Attorney Docket No. CN01365K

DECISION ON PETITION

This is a decision on the petition filed August 24, 2004, which is being treated as a petition under 37 CFR 1.181 (feeless) to withdraw the holding of abandonment.

The petition is **dismissed**.

On October 6, 2003, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. Petitioner obtained an extension of time for response within the first month pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on February 7, 2004. A Notice of Abandonment was mailed on July 27, 2004. On August 24, 2004, petitioner filed the present petition.

Petitioner asserted that he submitted a timely reply to the final Office action in the form of an amendment with a certificate of mailing dated February 6, 2004. Petitioner submitted a copy of the reply and a request for an extension of time, bearing a certificate of mailing date of February 6, 2004, and a copy of the return date-stamped postcard receipt.

Initially, the Office must determine whether the application is, in fact, abandoned. Namely, the Office must review the present petition to evaluate if petitioner's assertions merely involve the cause of the abandonment. Therefore, where there is no dispute as to whether an application is abandoned because no disagreement exists regarding the sufficiency of the reply or controlling dates, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment would be inappropriate. See MPEP 711.03(c)(I). Instead, a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. See MPEP 711.03(c)(I).

The Office notes that the original reply and request for extension of time are in the file. The certificate of mailing of February 6, 2004, renders the reply timely filed. Nevertheless, upon reviewing petitioner's response to the final Office action, the Examiner issued an Advisory Action on June 15, 2004, stating that petitioner's reply failed to place this application in condition for allowance. The Office further notes that a response to a final Office action may be entered if it places the application in condition for allowance. However, the admission or refusal to admit an amendment after a final rejection will not operate to relieve the application from its condition. The entry of an amendment after a final rejection is not a matter of right. It is clear from 37 CFR 1.116 that abandonment of an application is risked when an amendment is filed after a final Office action. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action, not by the mailing of an Office communication, such an Advisory Action.[1] The mere filing of an amendment in response to a final Office action does not save the application from abandonment. Rather, the filing of a Notice of Appeal, a Request for Continued Examination accompanied by a proper submission, or a continuing application in response to a final rejection guarantees the pendency of the application.

The application is currently abandoned due to petitioner's failure to submit a proper response to the final Office action. Under the circumstances of this case, the application did not become abandoned due to a delay in reviewing the amendment or the mailing of the Advisory Action or any other error on the part of the U.S. Patent and Trademark Office. Accordingly, the petition to withdraw the holding of abandonment is **dismissed**.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b) to revive the application. The provisions of 37 CFR 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action;

(2) The petition fee as set forth in 1.17(m);

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

With the present petition, petitioner provided the Office with a copy of the amendment submitted on February 11, 2004 (certificate of mailing date of February 6, 2004) as the reply to the outstanding final Office action. However, as the Examiner previously stated in the Advisory Action mailed June 15, 2004, the amendment failed to place the application in condition for allowance. Therefore, the amendment is not a proper reply to the final rejection. Accordingly, petitioner must submit an appropriate reply with any petition under 37 CFR 1.137(b).

In a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

---

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-30 (CCPA 1964); Krahn v. Comm'r, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1984).

(1) A Notice of Appeal and appeal fee;

(2) An amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise *prima facie* places the application in condition for allowance;

(3) The filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995; or

(4) The filing of a continuing application under 37 CFR 1.53(b).

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

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KENNETH C. SPAFFORD
708 SMITHSON AVENUE
ERIE PA 16511

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Application of :
Anthony, et al. :
Application No. 09/996,355 : ON PETITION
Filed: 29 November, 2001 :
Attorney Docket No. X2YA0125U-US :

This is a decision on the petition filed on 16 September, 2011, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

In view of their duty of candor to the Office to properly inquire to ascertain the accuracy of representations made before the Office (*see*: 37 C.F.R. §1.4, §10.18, MPEP §410), Petitioners always are reminded of the responsibility to review their records and submit accurate information to the Office.

Petitioners also are reminded to chart out the fees paid/fees due/balance due in their submission(s) to the Office. (*See, generally*: 37 C.F.R. §1.27, §1.28, MPEP §509.02 and 509-03.)

Petitioner's submission is **ACCEPTED**.

In accordance with the request, status as a Small Entity will be removed, and Petitioner is required to pay fees at the schedule set forth for not-small entities. **The additional fees were charged as authorized.**

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The instant application is released to the Office of Patent Application Processing (OPAP) for further processing in due course as is necessary.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

June 8, 2011

Linda Wang
6670 Cobra Way
San Diego, CA 92121

Patent No.	: 6,602,766 B2
Ser. No.	: 09/996,469
Inventor(s)	: Daniel H. Chang, et al.
Issued	: August 5, 2003
Docket No.	:
Title	: **ULTRAVIOLET/ELECTRON BEAM FORMING PROCESS FOR MULTI-LAYER ELECTRONIC COMPONENTS AND PRODUCTS THEREOF**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6597940	2003-07-22	09996602	2001-11-30	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	◉ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Under 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 V. Keller/	Date (YYYY-MM-DD)	2011-09-28
Name	Paul V, Keller	Registration Number	42713

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6597940
Issue Date: July 22,2003
Application No. 09996602
Filed: November 30,2001
Attorney Docket No. 9507-002-27 CIP

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

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 7.5 year 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.

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED
SEP 29 2011
OFFICE OF PETITIONS

In re Patent No. 6,993,662	:
Moshe Rubin and	:
Daniel Schreiber	: DECISION DISMISSING PETITION
Application No. 09/996,623	: UNDER 37 CFR 1.55(c)
Filed: November 28, 2001	: and
Title: METHOD AND SYSTEM FOR	: ON REQUEST FOR CERTIFICATE
COPY PROTECTION OF DISPLAYED	: OF CORRECTION
DATA CONTENT	:

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 37 C.F.R. 1.55(c) AND REQUEST FOR CERTIFICATE OF CORRECTION, filed August 25, 2011, to add a benefit claim to Israeli Patent Application Nos. 124895 filed June 14, 1998, 127093 filed November 16, 1998 and 127869 filed December 30, 1998, by way of issuance of a certificate of correction.

In addition, patent requests correction of an error made by the Office wherein two of the U.S. priority applications were reversed on the face of the patent.

As stated in MPEP 201.16,

> A certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR 1.55(a) are met. Furthermore, if the continuing application (other than a design application),

> which issued as a patent, was filed on or after November 29, 2000, in addition to the filing of a certificate of correction request, patentee must also file a petition for an unintentionally delayed foreign priority claim under 37 CFR 1.55(c)[1].

Patentee states that with respect to IL 127093 and 127869 the requirements of 35 U.S.C. 119(a)-(d) were satisfied in parent application No. 09/397,331 (now U.S. Patent No. 6,298,446) prior to issuance of the patent. Patentee states that with respect to IL 124895 the requirements of 35 U.S.C. 119(a)-(d) were satisfied in parent application No. 09/313,067 (now U.S. Patent No. 6,209,103) prior to issuance of the patent. This application is a continuing application of the '331 and '067 applications. A review of the '103 patent confirms that it issued on March 27, 2001 with the foreign priority benefit thereon. By certificate of correction signed September 27, 2011, the '446 patent was corrected to include the foreign priority benefit thereon to all three Israeli applications.

Accompanying the petition to accept the delayed claim of priority is a certificate of correction setting forth the requested foreign priority claim and payment of the certificate of correction processing fee.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

> (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
> (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
> (3) the surcharge as set forth in 37 CFR 1.17(t);

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[1] However, a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR 1.55(a) are not met. In this latter circumstance, the claim to foreign priority benefits can be perfected only by way of a reissue application in accordance with the rationale set forth in Brenner v. State of Israel, 158 USPQ 584.

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application filed November 28, 2001, was filed after November 29, 2000. The petition includes a claim for priority to foreign application/patent No. IL 124895, filed June 14, 1998; 127093 filed November 16, 1998; and 127869 filed December 30, 1998. Moreover, the petition includes payment of the surcharge and a proper statement of unintentional delay. Intermediate application No. 09/313,067 filed May 17, 1999 was filed within 12 months of the filing date of all 3 foreign applications.

However, requirement (2) above is not met. The claim is not included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6)).

In view thereof, the petition under 37 CFR 1.55(c) is **DISMISSED**.

Any renewed petition must satisfy requirement (2) above. The additional request for correction of an error made by the Office wherein two of the U.S. priority applications were reversed on the face of the patent will be considered on renewed petition as the requested certificate of correction first requires granting of this petition.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

cc: Dawn-Marie Bey
King & Spaulding
1700 Pennsylvania Avenue, NW
Suite 200
Washington, DC 20006

UNITED STATES PATENT AND TRADEMARK OFFICE

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Stolowitz Ford Cowger LLP / ptomail
621 SW Morrison Street
Suite 600
Portland OR 97205

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Patent No. 6,993,662	:
Moshe Rubin and	:
Daniel Schreiber	: DECISION GRANTING PETITION
Issue Date: January 31, 2006	: UNDER 37 CFR 1.55(c)
Application No. 09/996,623	: and
Filed: November 28, 2001	: ON REQUEST FOR CERTIFICATE
Title: METHOD AND SYSTEM FOR	: OF CORRECTION
COPY PROTECTION OF DISPLAYED	:
DATA CONTENT	:

This is a decision on the REQUEST FOR RECONSIDERATION OF THE DECISION TO DISMISS THE PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 37 C.F.R. 1.55(c) AND REQUEST FOR CERTIFICATE OF CORRECTION, filed February 7, 2012, to add benefit claims to Israeli Patent Application Nos. 124895 filed June 14, 1998, 127093 filed November 16, 1998 and 127869 filed December 30, 1998, by way of issuance of a certificate of correction.

The petition under 37 CFR 1.55(c) is **GRANTED**.

By decision mailed September 29, 2011, the initial petition filed August 25, 2011 was dismissed. The requirements as set forth in MPEP 201.16 were met[1], except the claim submitted with the

[1] A certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the

petition was not included in either an oath or declaration (37 CFR 1.63(c)(2)) or an Application Data Sheet (37 CFR 1.76(b)(6)) as required by 37 CFR 1.55(c).

The renewed petition includes an application data sheet containing the added priority claims to the foreign Israeli applications. The requirements of 37 CFR 1.55(c) have now been met.

A corrected Filing Receipt, which includes the priority claim to the above-noted, foreign applications, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the foreign applications. A determination that patentee is entitled to claim benefit of the foreign applications will be made by the Examiner prior to the mailing of a certificate of correction.

It is noted that notwithstanding that no decision granting this petition had been issued, a Certificate of Correction adding the foreign priority data was issued on March 13, 2012. This application is being referred to the Certificates of Correction Branch for verifying that the issuance of the Certificate of Correction was in accordance with this decision on the petition under 37 CFR 1.55(c).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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requirements of 37 CFR 1.55(a) are met. Furthermore, if the continuing application (other than a design application), which issued as a patent, was filed on or after November 29, 2000, in addition to the filing of a certificate of correction request, patentee must also file a petition for an unintentionally delayed foreign priority claim under 37 CFR 1.55(c)[1].

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
09/996,623	11/28/2001	2131	1386	1259-0017	32	2

CONFIRMATION NO. 5715

CORRECTED FILING RECEIPT

11788
Stolowitz Ford Cowger LLP / ptomail
621 SW Morrison Street
Suite 600
Portland, OR 97205

OC000000053329304

Date Mailed: 03/26/2012

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)

Moshe Rubin, Jerusalem, ISRAEL;
Daniel Schreiber, Beit Shemesh, ISRAEL;

Power of Attorney: The patent practitioners associated with Customer Number 73552

Domestic Priority data as claimed by applicant

This application is a CIP of 09/774,236 01/29/2001 ABN *
which is a CIP of 09/397,331 09/14/1999 PAT 6298446
which is a CIP of 09/313,067 05/17/1999 PAT 6209103
(*)Data provided by applicant is not consistent with PTO records.

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.)
ISRAEL IL 124895 06/14/1998
ISRAEL IL 127093 11/16/1998
ISRAEL IL 127869 12/30/1998

If Required, Foreign Filing License Granted: 12/12/2001

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 09/996,623**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR COPY PROTECTION OF DISPLAYED DATA CONTENT

Preliminary Class

713

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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UNITED STATES PATENT AND TRADEMARK OFFICE

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March 30, 2011

Christine Hartness
CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Patent No: 7,426,719 B2
Application No: 09/997,056
Applicant: Ronnie Ira Chaiken, et al.
Issued: September 16, 2008
Title: **METHOD AND SYSTEM FOR REWRITING UNWIND DATA IN THE PRESENCE OF EXCEPTIONS**

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.

Inspection of the file of the application for the patent reveals that column 18, line 40, in the patent, is printed in accordance with the record in the Patent and Trademark Office, as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing your request in this matter is hereby **denied**.

However, further consideration will be given this matter, upon receipt of a request for certificate of correction under the provision of 1.323, accompanied by the appropriate fee which is presently $100.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
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