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Paper No. 8

RANKIN, HILL & CLARK LLP
38210 GLENN AVENUE
WILLOUGHBY OH 44094-7808

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of :
Krinsky :
Application No. 09/997,110 :
Patent No. 6,631,683 : DECISION ON PETITION
Filed: November 29, 2001 : PURSUANT TO 37 C.F.R.
Issue Date: October 14, 2003 : § 1.378(B)
Attorney Docket No. KRIN118206 :
Title: METHOD OF PREPARING :
CUSTOMIZED WALLPAPER PANELS :

This is a decision on the petition filed on June 1, 2010, pursuant to 37 C.F.R. § 1.378(b) to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.378(b) is **DISMISSED**.

Background

The patent issued on October 14, 2003. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on October 14, 2007, with no payment received. Accordingly, the patent expired on October 14, 2007, at midnight.

Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. § 1.378(b) must include:

(1) the required maintenance fee set forth in 37 C.F.R. § 1.20 (e) through (g);

(2) the surcharge set forth in 37 C.F.R. § 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.

With this petition, Petitioner has submitted the surcharge associated with a petition to accept the late payment of a maintenance fee as unavoidable, along with the 3½-year maintenance fee, and multiple statements of facts.

Petitioner has met the first and second requirements of Rule 1.378(b). The third requirement of Rule 1.378(b) will be discussed below.

The standard

35 U.S.C. § 41(c)(1) states, *in pertinent part*:

> The Director may accept the payment of any maintenance fee... after the six-month grace period if the delay[1] is shown to the satisfaction of the Director to have been unavoidable.

37 C.F.R. § 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 37 C.F.R. § 1.137(a). 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.[2]

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1 This delay includes the entire period between the due date for the fee and the filing of a grantable petition pursuant to 37 C.F.R. § 1.378(b).
2 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 addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."[3]

The burden of showing the cause of the delay is on the person seeking to revive the application.[4]

Application of the standard to the current facts and circumstances

Petitioner's explanation of the delay has been considered, and it has been determined that it fails to meet the standard for acceptance of a late payment of the maintenance fee and surcharge.

The period for paying the 3½-year maintenance fee without the surcharge extended from October 14, 2006 to April 14, 2007 and for paying with the surcharge from April 15, 2007 to October 14, 2007. Thus, the delay in paying the 3½-year maintenance fee extended from October 14, 2007 at midnight to the filing of this petition on June 1, 2010.

The relevant facts are as follows:

1. At all times prior to the expiration of this patent, this patent was owned by the inventor.

2. The inventor did not submit the maintenance fee to the Office, because she determined that "up to and during (the time when the first maintenance fee was due)…insufficient business reasons existed to justify payment of the maintenance fee…the market for customized wallpaper panels and thus, the importance for patents covering methods of providing such, did not provide sufficient cause for the expenditure of maintenance fees."[5]

3. Office records show that on April 1, 2009, the inventor assigned the patent to Howry LLP, and on April 20, 2009, Howry LLP assigned the patent to Petitioner, Avery Dennison Corporation.

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3 Haines v. Quigg, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.
4 Id.
5 Krinsky declaration of facts, paragraph 8.

4. Petitioner became interested in acquiring this patent, and "in early 2009," Petitioner contacted the inventor to inquire whether she would be interested in assigning the patent to Petitioner.[6]

5. Prior to the aforementioned contact, Petitioner had actual knowledge that the 3½-year maintenance fee had not been submitted.[7]

6. Petitioner spent the time period between April 20, 2009 and February of 2010 obtaining the complete files associated with this patent, evaluating "the patent's relevance and potential value to any Avery business groups and/or current or proposed projects," and obtaining authorization from "the relevant business groups to undertake revival efforts" for this patent.[8]

7. On February 26, 2010, Petitioner contacted Mark Bandy, who prepared and submitted this petition on behalf of Petitioner.[9]

8. Petitioner "has a sophisticated in-house legal and patent department with corresponding docketing systems to ensure that all future maintenance fees associated with (this patent) will be paid..."[10]

First, the record does not contain a showing that the inventor had **steps** in place to ensure the timely submission of the maintenance fees. An adequate showing that the delay in payment of the maintenance fees at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps to ensure timely payment of the maintenance fees, 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR § 1.378(b).

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6 Sardesai statement of facts, paragraph 2 and 6.
7 Id. at 5.
8 Id. at 9.
9 Id at 10 and Bandy statement of facts, paragraph 1.
10 Showing of Unavoidable Delay in Support of Petitions Under 37 CFR § 1.378, page 4.

Second, the record does not reveal the **date and the manner in which Petitioner became aware of the expiration of the patent.**

Third, the record does not support a finding that the entire period of delay was unavoidable.

For the period of time between the expiration of this patent and April 1, 2009, during which the patent was owned by the inventor, **this period of delay has been shown to have been clearly avoidable.** The inventor has clearly indicated that she **intentionally** permitted this patent to expire, as she did not feel that the subject matter of this patent had a level of commercially viability sufficient to justify the financial expense of maintaining this patent. In other words, the inventor has established that this patent was not her most important business.

A prudent and careful woman, acting in relation to her most important business, would not have determined that this patent was not worth the expense that was required to keep it active and enforceable, and consciously allowed it to expire.

As the owner of the patent intentionally allowed this patent to lapse, this portion of the period of delay is not unavoidable.

See MPEP § 711.03(c)(II)(C)(1)(D) for a similar discussion which pertains to unintentional delay in reviving an abandoned patent application.

For the period of time between when Petitioner first discovered that this patent had expired for failure to submit the maintenance fee (prior to "early 2009")[11] and the filing of this petition, this period of delay has not been shown to have been unavoidable.

As set forth above, Petitioner has a "sophisticated in-house legal and patent department with corresponding docketing systems." As such, it would appear that Petitioner was well aware of the need to submit maintenance fees, as well as the consequences of not seeking the prompt reinstatement of a patent that is known to have expired for failure to timely submit a maintenance fee. Yet Petitioner, who assumed ownership of this patent on April 20, 2009 and possessed actual knowledge of the fact that the patent was expired, and was in a position to have

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11 Sardesai statement of facts, paragraphs 2, 5, and 6.

filed a petition pursuant to 37 C.F.R. § 1.378(c) up until October 14, 2009, failed to file such a petition.

Moreover, rather than promptly seeking the reinstatement of this patent through either the filing of a petition pursuant to 37 C.F.R. §§ 1.378(b) or (c), Petitioner spent the next ten months[12] gathering the relevant paperwork, evaluating the commercial viability of this patent, and obtaining authorization to submit the required fees to the Office, before eventually contacting Mr. Bandy and directing him to seek the reinstatement of this expired patent.

Prudent and careful men, acting in relation to their most important business, would have taken active measures to attempt to reinstate this patent immediately upon learning that it had expired, or at the very least, upon assuming ownership of the patent. Prudent and careful men, acting in relation to their most important business, would not assume ownership of the patent, and then wait ten months before attempting to secure the reinstatement of their most important business.

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 37 C.F.R. § 1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that Petitioner supply any and all relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Petitioner must provide documentation and address the deficiencies noted above. If on request for reconsideration, the delayed payment of the maintenance fees is not accepted, then the maintenance fees 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.

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12 Petitioner first contacted the patent counsel who submitted this petition on behalf of Petitioner on February 26, 2010.

The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.378(e)". 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, and may be submitted by mail,[13] hand-delivery,[14] or facsimile.[15] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[16]

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

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13 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
14 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
15 (571) 273-8300 - please note this is a central facsimile number.
16 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

UNITED STATES PATENT AND TRADEMARK OFFICE

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GIGAMAX TECHNOLOGIES, INC.
6550 EDENVALE BLVD.
EDEN PRAIRIE MN 55346

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Patent No. 6,813,589 :
Application No. 09/997,143 :
Filed: November 29, 2001 : ON PETITION
Issued: November 2, 2004 :
Attorney Docket No. 0019US01 :

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

The petition is **GRANTED**.

The patent issued November 2, 2004. The last day of the grace period for paying the 3.5-year maintenance fee was November 2, 2008. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

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)
6,878,342	2005-04-12	09/997,154	2001-11-28	FGNV-07

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/David H. Brinkman/	Date (YYYY-MM-DD)	2011-01-10
Name	David H. Brinkman	Registration Number	40532

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6878342
Issue Date: April 12,2005
Application No. 09997154
Filed: November 28,2001
Attorney Docket No. 602-1475.1

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

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

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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)
6620003	2003-09-16	09997560	2001-11-29	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Peter Ganjian/	Date (YYYY-MM-DD)	2011-10-11
Name	PETER GANJIAN	Registration Number	43991

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6620003
Issue Date: September 16,2003
Application No. 09997560
Filed: November 29,2001
Attorney Docket No. 424-19-PA

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

This is a decision on the electronic petition, filed October 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 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

MICHAEL BEST & FRIEDRICH LLP (Mke)
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

MAILED

FEB 08 2012

OFFICE OF PETITIONS

In re Application of:	:	
Hanson et al.	:	
Application No. 09/997962	:	DECISION GRANTING
Filing or 371(c) Date: 11/29/2001	:	PETITION UNDER
Title of Invention:	:	37 CFR 1.47(a)
DRUG DELIVERY DEVICE	:	
INCORPORATING A TRACKING CODE	:	

This is in response to a petition pursuant 37 C.F.R 1.47(a), filed January 11, 2012, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor.

The petition is **granted**.

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

Petitioner has shown that the non-signing inventors, Don Detar and Robert Hanson, refuse to join in the application.

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

The application file is being referred to the Publishing Division for processing into a patent.

Telephone inquiries related to this decision may 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MR. DON DETAR
4211 WESTON DRIVE
LILBURN, GA 30047

MAILED

FEB 08 2012

OFFICE OF PETITIONS

In re Application of:
Hanson et al.
Application No. 09/997962
Filing or 371(c) Date: 11/29/2001
Title of Invention:
DRUG DELIVERY DEVICE
INCORPORATING A TRACKING CODE

LETTER

Dear Mr. Detar:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: MICHAEL BEST & FRIEDRICH LLP (Mke)
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

UNITED STATES 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. ROBERT HANSON
5713 REGENCY CT. N.
MOBILE, AL 36609

MAILED
FEB 08 2012
OFFICE OF PETITIONS

In re Application of:
Hanson et al.
Application No. 09/997962
Filing or 371(c) Date: 11/29/2001
Title of Invention:
DRUG DELIVERY DEVICE
INCORPORATING A TRACKING CODE

LETTER

Dear Mr. Hanson:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: MICHAEL BEST & FRIEDRICH LLP (Mke)
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

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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MICHAEL BEST & FRIEDRICH LLP (Mke)
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE WI 53202

MAILED
FEB 08 2012
OFFICE OF PETITIONS

In re Application of:
Hanson et al.
Application No. 09/997962
Filing or 371(c) Date: 11/29/2001
Attorney Docket Number:
026436-9073-US01

ON PETITION

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 CFR 1.137(b), filed February 6, 2012.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed September 28, 2010. The Notice set a two (2) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No response having been received, the application became abandoned November 29, 2010.

Applicant files the present petition and reply to the Notice. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

It is noted that the statement of unintentional delay varies from the rule and has been interpreted to be that the entire delay between the date the claim was due under paragraph (a)(2(ii) and (a)(5)(ii) was unintentional. If this interpretation is not correct petitioner is required to promptly notify this Office.

It is also noted that Applicant filed a three (3) month extension of time with the petition. Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable reply period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available. A refund of the extension of time fee has been credited to petitioner's credit card.

This application is being referred to the Office of Patent Application Processing ("OPAP") for processing of the reply to the Notice in due course.

Telephone inquiries concerning this decision 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
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DEPT – INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,250,028 :
Christopher A. Julian et al :
Application No. 09/998,004 : NOTICE
Filed: November 28, 2001 :
Attorney Docket No. 017516-002580US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on January 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) 272-3208.

/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

JONES & SMITH LLP
2777 ALLEN PARKWAY, SUITE 1000
HOUSTON TX 77019-2141

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,608,003 :
Issue Date: August 19, 2003 :
Application No. 09/998,743 : NOTICE
Filed: November 30, 2001 :
Attorney Docket No. 019528/00501

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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)
7023471	2006-04-04	09999541	2001-10-31	42390P12157

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required 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. 7023471
Issue Date: April 4,2006
Application No. 09999541
Filed: October 31,2001
Attorney Docket No. 42390P12157

:
: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

STURM & FIX LLP
206 SIXTH AVENUE, SUITE 1213
DES MOINES, IA 50309-4076

MAILED
MAY 13 2011
OFFICE OF PETITIONS

In re Patent No. **6,705,056**
Issue Date: March 16, 2004
Application No. 09/999,874
Filed: October 19, 2001
Attorney Docket No. **2-5578-001**

NOTICE UNDER 37 CFR 1.28(C)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. 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 Monica A. Graves at (571) 272-7253.

/Monica A. Graves/
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)
6,599,161	2003-07-29	10/000,274	2001-11-02	Hunter-274

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity	Fee	Code	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Eric A. LaMorte/	Date (YYYY-MM-DD)	2011-10-11
Name	Eric A. LaMorte	Registration Number	34653

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6599161
Issue Date: July 29,2003
Application No. 10000274
Filed: November 2,2001
Attorney Docket No. PHUNJL

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

This is a decision on the electronic petition, filed October 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 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.

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)
6,452,796	2002-09-17	10/000,314	2001-10-23	N3799

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Mark J. Patterson/	Date (YYYY-MM-DD)	2011-06-22
Name	Mark J. Patterson	Registration Number	30412

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6452796
Issue Date: September 17,2002
Application No. 10000314
Filed: October 23,2001
Attorney Docket No. 13431-7

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALFRED B. LEVESQUE
3890 ELM ST.
DENVER CO 80207

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of :
Alfred B. LEVESQUE :
Application No. 10/000,360 : DECISION ON PETITION
Filed: December 04, 2001 :
Attorney Docket No. :

This is a decision on the petition, filed August 19, 2003 and resubmitted December 22, 2003, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This application became abandoned for failure to timely pay the issue and publication fees on or before May 27, 2003, as required by the Notice of Allowance and Fee(s) Due, mailed February 25, 2003. Accordingly, the date of abandonment of this application is May 26, 2003.

Petitioner asserts that a timely reply was received by the Office on August 23, 2003, and due to a mistake by the petitioner the wrong amount for the issue fee was submitted. Petitioner also states that an additional fee covering the remaining portion issue fee was submitted on August 19, 2003.

The Office acknowledges that a partial payment was received on August 23, 2003 and that an additional fee was submitted on August 19, 2003. However the full payment of the issue fee was not submitted by May 25, 2003 as required by the Notice of Allowance mailed February 25, 2003. Therefore the petition can not be granted.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity** or **$1,620.00 for a large entity**,

(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. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

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

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

By 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 concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/

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

MAILED

APR 11 2011

OFFICE OF PETITIONS

MARSH, FISCHMANN & BREYFOGLE LLP
8055 EAST TUFTS AVENUE
SUITE 450
DENVER CO 80237

In re Application of	:	
Alfred B. LEVESQUE	:	
Application No. 10/000,360	:	DECISION ON PETITION
Filed: December 04, 2001	:	
Attorney Docket No. 50250-00004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 04, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 27, 2003, as required by the Notice of Allowance and Fee(s) Due, mailed February 25, 2003. Accordingly, the date of abandonment of this application is May 26, 2003.

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 $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason 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

cc: **ALFRED B. LEVESQUE**
4900 EAST 39TH AVENUE
DENVER, CO 80207

UNITED STATES 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.

NOVOZYMES, INC.
1445 DREW AVE
DAVIS CA 95618

MAILED
APR 26 2011
OFFICE OF PETITIONS

In re Application of :
Brody et al. :
Application No. 10/000,845 : DECISION ON PETITION
Filed: October 24, 2001 : UNDER 37 C.F.R. § 1.78(A)(3)
Attorney Docket No.: 4944-US-DIV :
Title: METHODS FOR MODIFYING THE PRODUCTION OF A POLYPEPTIDE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.78(a)(3), filed January 7, 2011 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed U.S. application set forth in both an amendment to the specification and a Supplemental Application Data Sheet (ADS), each of which was filed concurrently with this petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 C.F.R. § 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 C.F.R. 1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 C.F.R. § 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 C.F.R. 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.

Requirements (2) and (3) above have been satisfied. The petition does not satisfy item (1) above.

Pursuant to Rule 1.78(a)(2)(iii), the required reference must be included in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. Consequently, Petitioner has submitted both an amendment to the specification and a Supplemental ADS, so as to present the required reference. However, neither the amendment to the specification nor the Supplemental ADS can be entered. A discussion follows.

Regarding the amendment to the specification, the reference to add prior-filed U.S. application number 09/339,972 (U.S. Patent No. 6,323,002) in the first sentence of the specification on page one following the title is not acceptable as drafted since **it improperly incorporates by reference the prior-filed U.S. application. Moreover, it is noted that the amendment further improperly incorporates by reference prior-filed U.S. application No. 08/928,692 (U.S. Patent No. 5,958,727).**[1] An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 (or 35 U.S.C. § 365(c)) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 (or 35 U.S.C. § 365(c)) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. See Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). Note MPEP §§ 201.06(c) and 608.04(b).

Regarding the Supplemental ADS, the supplemental ADS that was submitted concurrently with this petition cannot be entered, as **it has not been executed.** Petitioner will note that an ADS filed with the application is not required to be signed unless the ADS includes a nonpublication request. 37 C.F.R. § 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 C.F.R. § 1.27(c)(2)(ii), filed in the application must be signed by an appropriate party. Therefore, an ADS or a

1 On filing, only prior-filed U.S. Application No. 08/713,312 was incorporated by reference.

supplemental ADS filed after the filing of an application must be signed in accordance with 37 C.F.R. § 1.33(b).

Assuming arguendo that the Supplemental ADS could be entered, it is noted that the Supplemental ADS appears to contain incorrect serial numbers. The serial numbers which appear in the Supplemental ADS (12/022,441, 10/669,757, and 60/413,057) do not match those which appear in the amendment to the specification that was submitted concurrently with this petition (09/339,972, 08/928,692, and 08/713,312). Furthermore, the serial numbers which appear in the Supplemental ADS (12/022,441, 10/669,757, and 60/413,057) do not appear in the ADS that was included on filing, the specification that was included on filing, or the amendments to the specification that were filed on August 26, 2005, February 10, 2006, or concurrently with this petition, and as such, each appears to be a typographical error.

Any reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.78(a)(3)," **and should include both an amendment to the specification that incorporates by reference only prior-filed U.S. application number 08/713,312 and a supplemental ADS that is both properly titled and executed. Moreover, Petitioner should ensure that the serial numbers which appear in the Supplemental ADS match those which appear in the amendment to the specification.**

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

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 deciding official.

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[6]

Anthony Knight
Director
Office of Petitions

6 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.

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)
7167648	2007-01-23	10001524	2001-10-24	IFOS-001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alan R Loudermilk/	Date (YYYY-MM-DD)	2011-03-31
Name	Alan R Loudermilk	Registration Number	32788

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7167648
Issue Date: January 23,2007
Application No. 10001524
Filed: October 24,2001
Attorney Docket No. IFS-001

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

This is a decision on the electronic petition, filed March 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 March 31,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE WI 53202-4497

MAILED

APR 26 2011

OFFICE OF PETITIONS

In re Patent No. 6,613,021	:	
Issue Date: September 2, 2003	:	
Application No. 10/001,706	:	NOTICE
Filed: October 31, 2001	:	
Attorney Docket No. 460868.90185	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 25, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

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

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

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)
7118709	2006-10-10	10001762	2001-10-31	H01.2Z-15397-US01

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Scott Q. Vidas/	Date (YYYY-MM-DD)	2011-07-08
Name	Scott Q. Vidas	Registration Number	30812

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7118709
Issue Date: October 10,2006
Application No. 10001762
Filed: October 31,2001
Attorney Docket No. DT-6016

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

This is a decision on the electronic petition, filed July 8,2011 ,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 July 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.

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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ROBERT W STROZIER, P.L.L.C
PO BOX 429
BELLAIRE, TX 77402-0429

MAILED

FEB 24 2011

OFFICE OF PETITIONS

In re Application of Marques :
Application No. 10/001,778 : Decision on Petition
Filing Date: October 23, 2001 :
Attorney Docket No. 97007/01C1 :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment of the application filed October 7, 2010, and the petition under 37 CFR 1.183 filed October 7, 2010.

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

The petition under 37 CFR 1.183 is **dismissed as moot**.

Any request for reconsideration of the dismissal of the petition under 37 CFR 1.181 must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Facts

The Office mailed a non-final Office action on March 23, 2004.

An amendment and a request for a one-month extension of time were filed July 23, 2004. The amendment used the parenthetical expression "(previously added)" as the status identifier for several of the pending claims.

The Office mailed a Notice of Non-Compliant Amendment on August 6, 2004. The notice set a one-month shortened statutory period for reply. The notice indicated the July 23, 2004 amendment was non-compliant for the following reasons:

1. A paragraph adding a priority claim in the amendment was underlined,
2. A complete listing of all the claims was not present,
3. The amendment used "presently added" as a status identifier instead of "Previously presented", and
4. The amendment included a change to Claim 9 even though Claim 9 had been previously cancelled.

A request to change the address of record was filed by Attorney Robert Strozier on October 29, 2004.

Office PALM records indicate a "Miscellaneous Communication to Applicant" was mailed November 4, 2004. A copy of the November 4, 2004 communication is not located in the Image File Wrapper for the application.

Strozier filed an amendment on December 8, 4004. He indicated the amendment was being filed in "response to the 4 November 2004 Notice of Non-Compliant Amendment." The amendment included a request for a one-month extension of time. The amendment also included authorization for the Office to charge any necessary fees to Deposit Account No. 50-1518.

The December 8, 2004 amendment used the language "(previously added)" as the status identifier for several of the pending claims.

On December 21, 2004, the Office mailed a notice titled, "Failure to Acceptably Respond to Notice of Non-Compliant Amendment." The notice did not set a new time period for reply. The notice stated,

> Each claim has not been provided with the proper status identifier.... [T]he status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).

The notice also included handwritten language stating, "Previously add (sic) should read previously presented."

The examiner's objection to the use of "Previously Added" as a status identifier was based on 37 CFR 1.121(c), which stated, and continues to state,

> In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

The Office did not receive a response to the December 21, 2004 notice. As a result, the Office mailed a Notice of Abandonment on February 16, 2005

The Office issued a memorandum ("Memorandum") on June 6, 2005, waiving some of the requirements in 37 CFR 1.121(c).[1] The memorandum stated,

> Effective immediately, the Office is waiving certain requirements set forth in 37 CFR 1.121(c) and may accept non-compliant amendments under 37 CFR 1.121(c) where the non-compliance is limited to: 1) the inclusion of text of a canceled claim, or a not entered claim, and 2) use of certain variations of status identifiers in a claim listing....

[1] The memorandum was subsequently published in the Official Gazette. *See Acceptance of Certain Non-Compliant Amendments Under 37 CFR 1.121(c)*, 1296 Off. Gaz. Pat. Office 27 (July 5, 2005).

> [T]he Office hereby waives the provision in 37 CFR 1.121(c) that the status of the claims must be indicated by one of the status identifiers listed in 37 CFR 1.121(c) to the extent permitted in this notice.
>
> The Office will accept claim listings that include the alternative status identifiers set forth in the following table if the amendment otherwise complies with 37 CFR 1.121.
>
> Table of status identifiers set forth in 37 CFR 1.121(c) and acceptable alternatives
>
> | Status Identifiers Set Forth in 37 CFR 1.121(c) | Acceptable Alternatives |
> |---|---|
> | .... | |
> | Previously presented | Previously amended; Previously added; Previously submitted; and Previously presented claim.... |

The petition states,

> Applicant stated Mr. Strozier did not notify him regarding the office action, that the responses were non-compliant, or of the Notice of Abandonment. Applicant stated that he learned that the patent application was abandoned on August 5, 2010 when he met with Mr. Strozier.
>
> Applicant and current counsel have been attempting to obtain the physical prosecution file from former counsel but to date have only received electronic files of documents drafted by former counsel.

The instant petitions were filed October 7, 2010. One petition requests the withdrawal of the holding of abandonment. The other petition requests the Office consider the merits of the petition to withdraw the holding of abandonment despite a failure to comply with the two-month time limit set forth in 37 CFR 1.181(f).

The Petition Under 37 CFR 1.183

37 CFR 1.181(f) states, "Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided."

Petitioner requests the Office waive the two-month time limit in 37 CFR 1.181(f) and consider the merits of the petition to withdraw the holding of abandonment.

The use of the word "may" in 37 CFR 1.181(f) indicates the Office has the discretion to consider the merits of a petition under 37 CFR 1.181 filed more than two months after the mailing date of the action or notice from which relief is requested. In other words, it is unnecessary for the

Office to waive the time period set forth in 37 C.F.R. § 1.181(f) in order to consider the merits of the petition.

The Office has reviewed the record and, based on the current facts in the record, will exercise its discretion and consider the merits of the petition to withdraw the holding of abandonment. Therefore, the Office need not address whether or nor waiver of the regulation is warranted, the petition under 37 CFR 1.183 is dismissed as moot, and the Office has scheduled a refund of the $400 petition fee.

The Petition Under 37 CFR 1.181

The Office issued a Notice of Non-Compliant Amendment during 2004 which clearly indicated a problem existed with the status identifier for at least one claim. However, the December 8, 2004 amendment did not correct the problem. Instead, the amendment continued to use the phrase "previously added" as the status identifier for numerous claims and did not discuss, or even mention, the Office's prior objection to the use of the phrase as a status identifier. The Office mailed a Notice of Abandonment on February 16, 2005.

The December 8, 2004 amendment failed to comply with all the requirements in the prior notice and violated 37 CFR 1.121(c) by using an improper status identifier for numerous claims. Therefore, the Office acted properly when the Office held the application abandoned and issued a Notice of Abandonment application was properly held abandoned.

The June 6, 2005 Memorandum does not seek to retroactively waive a regulation. Instead, the Memorandum clearly indicates the limited waiver set of 37 CFR 1.121 is "[e]ffective immediately." The Memorandum was dated June 6, 2005, after the date the instant application became abandoned. Therefore, the limited waiver of 37 CFR 1.121 was inapplicable to the December 8, 2004 amendment and the application is abandoned.

Since the application is abandoned, a grantable petition under 37 CFR 1.137 must be filed if Petitioner wishes to pursue the application. The Office notes a petition under 37 CFR 1.137(b) cannot be granted unless the entire period of delay from the due date for reply until the filing of a grantable petition was unintentional. The current record fails to indicate whether or not Strozier intentionally allowed the application to go abandoned and/or intentionally failed to take actions to revive the 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. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person 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.

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.[2] Document Code "PET.OP" should be used if the request is filed electronically.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

cc: Melissa D. Schwaller
Novak Druce + Quigg LLP
1000 Louisiana, Fifty-Third Floor
Houston, TX 77002

[2] 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

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

OCT 25 2011

OFFICE OF PETITIONS

In re Patent No: 6,692,145 :
Issued: February 17, 2004 :
Application No. 10/001,919 : NOTICE
Filed: October 31, 2001 :
Attorney Docket No. 032026:0610 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 27, 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).

Additionally, it should be noted that the current large entity seven and one half year maintenance fee is $2,850.00. Therefore, the deficiency payment should be $1,610.00 instead of the $1,240.00 submitted September 27, 2011.

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 request 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: Amy Kruse
Wisconsin Alumni Research Foundation
PO Box 7365
Madison, WI 53707

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT S. SWECKER
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of	:	
Beeck et al.	:	DECISION ON PETITION
Application No. 10/002,141	:	TO WITHDRAW
Filed: December 5, 2001	:	FROM RECORD
Attorney Docket No. 033275-316	:	

This is a decision on the Request to Withdraw as Attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2011.

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 will require the practitioner(s) to specify a reason and certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which 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 replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Teresa Stanek Rea on behalf of herself.

Teresa Stanek Rea has been withdrawn as attorney of record, however all other attorneys remain of record.

There is an outstanding Advisory Office action mailed March 8, 2011, that requires a reply from the applicant.

As no change of correspondence address was indicated on the request, the address will remain unchanged.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
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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OCT 13 2010

OFFICE OF PETITIONS

FOGG & POWERS LLC
5810 W 78TH STREET
SUITE 100
MINNEAPOLIS MN 55439

In re Patent No. 6,754,085
Issue Date: June 22, 2004
Application No. 10/002,218
Filed: November 1, 2001
Attorney Docket No. 100.230US01

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed July 28, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on June 22, 2008, for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney 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) 272-6735.

The patent file is being referred to Files Repository.

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

Cc: OREN RECHES
211 NORTH UNION STREET,
SUITE 100
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.

HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

MAILED

FEB 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,309,328 :
Issue Date: 12/18/2007 :
Application Number: 10/002,329 :
Filing or 371(c) Date: 11/01/2001 :
Attorney Docket Number: 20043.0004USD1 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on November 17, 2010.

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.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

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

D Wood

Douglas Wood
Attorney
Office of Petitions

Cc: GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

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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CANTOR COLBURN LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of :
Ajit Karmaker et al. :
Application No. 10/002,421 : NOTICE
Patent No. 6,872,076 :
Filed: October 25, 2001 :
Attorney Docket No. **97-2027-D**

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

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

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

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

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: **WOOD, HERRON & EVANS, L. L. P.**
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAN 07 2011

OFFICE OF PETITIONS

BIONUMERIK PHARMACEUTICALS, INC.
8122 Datapoint, Suite 1250
San Antonio TX 78229

In re Application of :
Frederick H. Hausheer :
Application No. 10/002,526 : NOTICE
Patent No. 7,176,192 :
Filed: October 26, 2001 :
Attorney Docket No. **X-0211**

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

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

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

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

MAILED

DEC 14 2011

OFFICE OF PETITIONS

In re Application of :
Karr :
Application No. 10/002,581 :
Patent No.: 6,572,322 : DECISION ON PETITION
Filed: November 15, 2001 : PURSUANT TO
Issued: June 3, 2003 : 37 C.F.R. § 1.28(c)
Title: MOUNTING SYSTEM FOR :
TRUCK MOUNTED BEVERAGE HANDLER :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on November 9, 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, the small entity fee that was actually paid, the deficiency owed amount, and the total deficiency payment owed.

Petitioner has not identified when the small entity fee was actually paid.

The requirement that Petitioner must provide the Office with when the small entity fee was actually paid is waived, *sua sponte*: a review of Office records shows that the small entity fee was actually paid on October 5, 2006.

The deficiency payment in the amount of $680 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.[1]

Paul Shanoski
Senior Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GIFFORD, KRASS, SPRINKLE,ANDERSON & CITKOWSKI, P.C
PO BOX 7021
TROY MI 48007-7021

MAILED

FEB 13 2012

OFFICE OF PETITIONS

In re Application of :
Karr :
Application No. 10/002,581 :
Patent No.: 6,572,322 : DECISION ON PETITION
Filed: November 15, 2001 : PURSUANT TO
Issued: June 3, 2003 : 37 C.F.R. § 1.28(c)
Title: MOUNTING SYSTEM FOR :
TRUCK MOUNTED BEVERAGE HANDLER :

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on January 6, 2012. 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 $3212.00 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

OK TO ENTER: /D.R./

OK TO ENTER: /D.R./

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 6,890,329

APPLICATION NO.: 10/002,957

ISSUE DATE : May 10, 2005

INVENTOR(S) : Sean Carroll, et al.

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

Please correct the Patent as follows:

FIGURE 4A - The reference designator "38" should be changed to "37".

"FIG. 2 depicts an exemplary embodiment as shown in FIG. 1B which further includes a pull-wire 18." (col. 4, ln. 32-33).

"Shown is a deflection structure 37 having first, second and third planar shims 40." (col. 5, ln. 24-25).

"The first set 46 and second set 48 of longitudinal elements each define an independent plane of deflection, a first deflection plane 46' and a second deflection plane 48' respectively, when actuated." (col. 5, ln. 60-64).

"Turning now to FIG. 22, the catheter system of FIG. 21 is shown in an actuated state." (col. 7, ln. 63-64).

"As such an alternate exemplary embodiment provides two longitudinal elements 224 positioned on the same "side" of the deflection wall 226 as one another, or less than 180 degrees from one another." (col. 9, ln. 19-22).

"The wall 250 further defines a hollow deflection conduit 256 which is configured to receive the actuator member 222." (col. 10, ln. 58-59).

"Alternatively, the deflection conduit 256 can be an integral formation of the wall 250, or can be a separate piece which is attached along the wall 250 or some combination thereof. The wall 250 can be constructed from any formable resilient material." (col. 10, ln. 62-66).

"In an exemplary embodiment, the wall 250 is constructed from a formable resilient polymer or plastic." (col. 10, ln. 66-67 to col. 11, ln. 1).

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Christopher & Weisberg, P.A.
200 East Las Olas Blvd., Suite 2040
Fort Lauderdale, FL 33301

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Paper No.

Harvard University & Medical School
c/o Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston MA 02210-2206

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of :
Schueller et al. :
Application No. 10/003,033 :
Patent No.: 6,747,285 :
Filed: November 1, 2001 :
Issued: June 8, 2004 :
Attorney Docket No.: :
H0498.70168US00 :
Title: OPTICAL :
MODULATOR/DETECTOR BASED ON :
RECONFIGURABLE DIFFRACTION :
GRATING

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.28(c)

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 29, 2010. 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 $515 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.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2-28-12 Paper No.: _____

TO SPE OF : ART UNIT 2492

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/003314 Patent No.: 7970826

CofC mailroom date: 2-14-12

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

FOR IFW FILES: Check Figs

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

E Yamb
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: in sheet 4 of 4, line 1 above "<xsl:stylesheet" insert -400 -- approved for drawings filed 12/6/01

S.N.
SPE

2492
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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of :
Gilbert Cabillic et al. :
Application No. 10/003,570 : DECISION ON PETITION
Filed: October 24, 2001 :
Attorney Docket No. TI-32157 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, March 18, 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 on June 19, 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 Notice of Appeal, with the required fee of $540, and Appeal Brief, with the required fee of $540, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the Notice of Appeal and Appeal Brief are accepted as being unintentionally delayed.

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.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Board of Patent Appeals and Interferences for appropriate action in the normal course of business for processing of the reply received October 6, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH C. SPAFFORD
708 SMITHSON AVENUE
ERIE PA 16511

MAILED
JAN 27 2012
OFFICE OF PETITIONS

In re Application of :
Anthony :
Application No. 10/003,711 : ON PETITION
Filed: 15 November, 2001 :
Attorney Docket No X2YA0127U-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

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.
10/003,917	11/01/2001	Joseph A. Zupanick	067083.0161	7751

26231 7590 08/02/2011
FISH & RICHARDSON P.C. (DA)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
KRECK, JOHN J	

ART UNIT	PAPER NUMBER
3672	

NOTIFICATION DATE	DELIVERY MODE
08/02/2011	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):

PATDOCTC@fr.com

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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AUG - 1 2011

FISH & RICHARDSON P.C. (DA)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of	:	
Zupanick et al.	:	RESPONSE TO PETITION
Application No. 10/003,917	:	TO EXPUNGE FILED
Filed: November 1, 2001	:	UNDER 37 CFR § 1.59(b)
For: METHOD AND SYSTEM FOR SURFACE PRODUCTION OF GAS FROM A SUBTERRANEAN ZONE	:	

This is a response to the petition under 37 CFR § 1.59(b), filed June 16, 2011 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

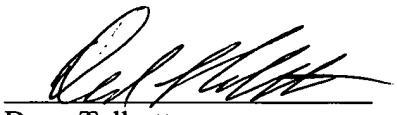
Petitioner requests expungement of "the materials disclosed in the Information Disclosure Statement (IDS) filed concurrently" with the petition as it "includes proprietary information."

A proper petition under 37 CFR 1.59(b) to expunge information submitted under MPEP § 724.02, or that should have been submitted under MPEP § 724.02 (as where proprietary information is submitted in an information disclosure statement but inadvertently not submitted in a sealed envelope as discussed in MPEP § 724.02) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) 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;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Petitioner has met requirements (A)-(E) above. The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

Any questions regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045.



Dave Talbott
Patent Technology Center 3600
(571) 272-5150

DT/tl: 07/20/11

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,917	11/01/2001	Joseph A. Zupanick	067083.0161	7751

26231 7590 04/06/2012
FISH & RICHARDSON P.C. (DA)
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

EXAMINER	
KRECK, JOHN J	
ART UNIT	PAPER NUMBER
3672	

NOTIFICATION DATE	DELIVERY MODE
04/06/2012	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):

PATDOCTC@fr.com

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www.uspto.gov

APR -5 2012

Fish & Richardson P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

In re Application of ZUPANICK, JOSEPH A.
Appl. No.:10/003917
Filed: November 1, 2001
For: METHOD AND SYSTEM FOR SURFACE PRODUCTION OF GAS FROM A SUBTERRANEAN ZONE

RESPONSE TO PETITION UNDER 37 CFR 1.59

This is a decision on the petition under 37 CFR 1.59(b), filed June 16, 2011, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that materials provided by Cliffs Natural Resources, filed June 16, 2011, be expunged from the record.

A petition under 37 CFR 1.59(b) must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;
(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) 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;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any questions regarding this decision should be directed to David Bagnell at (571) 272-6999.

David Talbott, Director
Patent Technology Center 3600
(571) 272-5150

DB/: 03/21/12

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BONGINI & BIANCO PL
21355 EAST DIXIE HIGHWAY
SUITE 115
MIAMI FL 33180

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of :
Bonutti :
Application No. 10/003,996 : DECISION ON PETITION
Filed: 15 November, 2001 :
Attorney Docket No. 780-A02-014-8 :

This is a decision on the petition filed on 18 August, 2010, pursuant to 37 C.F.R §1.182 requesting authorization to withdraw the terminal disclaimer filed 31 March, 2003.

NOTE:

Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of [a] terminal disclaimer have not been favorably considered. (*See*: MPEP §1490.)

As of this writing, there has been no response from the Patent Legal Research Center in this matter.

Moreover, the Examiner(s) in charge of this application expressly refused to concur in this request.

Any questions Petitioner may have in this regard **must** be directed to the Examiner

The petition pursuant to 37 C.F.R §1.182 is **DISMISSED**.

The guidance in the Commentary at MPEP §1490 provides in pertinent part:

***

VII.WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)

***

At the request of the Office of Petitions, the Examiner has reviewed Petitioner's representations and has noted (in pertinent part): " ... it appears that at least claim 41 has a obviousness-type double patenting issue with claim 10 of patent 5,403,317 and claim 60 has a double patenting issue with claims 1 of patents 5,403,317 and 5,694,951."

In addition and as previously noted, Petitioner's discussions made clear that Petitioner expressly determined for purposes of prosecution strategy to submit the terminal disclaimer notwithstanding Petitioner's own beliefs that the disclaimer was unnecessary.[1]

[1] *See*: Petition of 18 June, 2010, page 4, third paragraph.

Thus, Petitioner appears to have made choices deemed to provide to him a prosecution road to allowance, and the Office will not indiscriminately alter those choices.

Accordingly, the petition is **dismissed**.

This application is released to the Technology Center/AU 3733 for further processing in due course.

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/Caller'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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NOV 22 2010

OFFICE OF PETITIONS

In re Application of :
Bonutti :
Application No. 10/003,996 : DECISION ON PETITION
Filed: 15 November, 2001 :
Attorney Docket No. 780-A02-014-8 :

This is a decision on the petition filed on 13 November, 2010, pursuant to 37 C.F.R §1.182 requesting authorization to withdraw the two terminal disclaimers filed 31 March, 2003.

NOTE:

Petitioner seeks to reopen the question of the propriety of the double patenting rejection that prompted the filing of terminal disclaimers—historically, such requests have not been favorably considered. (*See*: MPEP §1490.)

Moreover, Petitioner has attempted to preach to the Office of Petitions with regard to the requirements under the Rule.

All the while, Petitioner appears to have expressly ignored the guidance (e.g., MPEP) provided previously herein

Now for the second time the Examiner in charge of this application expressly refused to concur in Petitioner's request.

Clearly, then, Petitioner's discussion of the matter was at best incomplete.

Because of the latter failing, Petitioner now must—following submission and Examiner's entry of amendment(s) cancelling claims as described and required by the Examiner—present an Interview Summary provided by the Examiner evidencing that Petitioner has satisfied the objections raised by the Examiner to the withdrawal of the terminal disclaimers in question.

Again, as of this writing, there has been no response of concurrence from the Patent Legal Research Center in this matter. Thus, after the requirement to evidence the Examiner's concurrence has been satisfied, Petitioner also must ensure that the subsequent concurrence of the Patent Legal Research Center can be obtained.

The petition pursuant to 37 C.F.R. §1.182 is **DISMISSED**.

The guidance in the Commentary at MPEP §1490 provides in pertinent part:

***

VII. WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)

***

As previously noted, the Examiner observed that:

***

> ... claims 41 and 60 also had double patenting issues ... . The terminal disclaimers are still applicable because it appears that original claim 41 has [an] obviousness-type double patenting issue with claim 10 of patent 5,403,317 and original claim 60 has a double patenting issue with claims 1 of patents 5,403,317 and 5,694,951.

***

Finally, Petitioner's discussions previously made clear that Petitioner expressly determined for purposes of prosecution strategy to submit the terminal disclaimer notwithstanding Petitioner's own beliefs that the disclaimer was unnecessary.[1]

Thus, Petitioner appears to have made choices deemed to provide to him a prosecution road to allowance, and the Office will not indiscriminately alter those choices.

Accordingly, the petition is **dismissed**.

This application is released to the Technology Center/AU 3733 for further processing in due course.

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/Caller's action(s).

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

---

[1] *See*: Petition of 18 June, 2010, page 4, third paragraph.

[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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JAN 03 2011

OFFICE OF PETITIONS

In re Application of :
Bonutti :
Application No. 10/003,996 : DECISION ON PETITION
Filed: 15 November, 2001 :
Attorney Docket No. 780-A02-014-8 :

This is a decision on the petition filed on 21 December, 2010, pursuant to 37 C.F.R §1.182 requesting authorization to withdraw the two terminal disclaimers filed 31 March, 2003.

The petition pursuant to 37 C.F.R §1.182 is **GRANTED**.

The guidance in the Commentary at MPEP §1490 provides the framework for consideration of the instant matter.[1]

[1] The guidance in the Commentary at MPEP §1490 provides in pertinent part:

***

VII. WITHDRAWING A RECORDED TERMINAL DISCLAIMER

If timely requested, a recorded terminal disclaimer may be withdrawn before the application in which it is filed issues as a patent, or in a reexamination proceeding, before the reexamination certificate issues. After a patent or reexamination certificate issues, it is unlikely that a recorded terminal disclaimer will be nullified.

A. Before Issuance Of Patent

While the filing and recordation of an unnecessary terminal disclaimer has been characterized as an "unhappy circumstance" in *In re Jentoft*, 392 F.2d 633, 157 USPQ 363 (CCPA 1968), there is no statutory prohibition against nullifying or otherwise canceling the effect of a recorded terminal disclaimer which was erroneously filed before the patent issues. *>Because< the terminal disclaimer would not take effect until the patent is granted, and the public has not had the opportunity to rely on the terminal disclaimer, relief from this unhappy circumstance may be available by way of petition or by refiling the application (other than by refiling it as a CPA).

As previously noted, the Examiner observed that:

> ***
> ... claims 41 and 60 also had double patenting issues ... . The terminal disclaimers are still applicable because it appears that original claim 41 has [an] obviousness-type double patenting issue with claim 10 of patent 5,403,317 and original claim 60 has a double patenting issue with claims 1 of patents 5,403,317 and 5,694,951.
> ***

The record reflects:

- the instant matter came before the Office before in petitions of 18 June, 2010 (dismissed on 14 July, 2010), 18 August, 2010 (dismissed on 13 September, 2010), and 13 November, 2010 (dismissed on 22 November, 2010);

- an Interview Summary dated 10 December, 2010, documented the substance of an Interview of 6 December, 2010; and

- Petitioner's submission of an amendment on 17 December, 2008, for consideration by the Examiner.

Thus, it appears as of this writing that Petition has made a *bona fide* effort to comply with the requirement(s) of the Examiner in this matter.

Accordingly, the petition to withdraw the Terminal Disclaimers herein of 31 March, 2003, at to Patent No. 5,403,317 (Claims 1, 5, 7 and 19-21 (obvious-type double patenting)) and Patent No. 5,694,951 (Claims 1-9 (obvious-type double patenting)) is **granted**.

This application is released to the Technology Center/AU 3733 for further processing in due course.

Under appropriate circumstances, consistent with the orderly administration of the examination process, the nullification of a recorded terminal disclaimer may be addressed by filing a petition under 37 CFR §1.182 requesting withdrawal of the recorded terminal disclaimer. Petitions seeking to reopen the question of the propriety of the double patenting rejection that prompted the filing of the terminal disclaimer have not been favorably considered. The filing of a continuing application other than a CPA, while abandoning the application in which the terminal disclaimer has been filed, will typically nullify the effect of a terminal disclaimer. The filing of a Request for Continued Examination (RCE) of an application under 37 CFR §1.114 will not nullify the effect of a terminal disclaimer, *>because< a new application has not been filed, but rather prosecution has been continued in the existing application. (Emphasis supplied.)

***

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/Caller'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.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,996	11/15/2001	Peter M. Bonutti	780-A02-014-8	8298

33771 7590 12/10/2010

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EXAMINER	
HOFFMAN, MARY C	
ART UNIT	PAPER NUMBER
3733	

MAIL DATE	DELIVERY MODE
12/10/2010	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.

Interview Summary	Application No.	Applicant(s)	
	10/003,996	BONUTTI, PETER M.	
	Examiner	Art Unit	
	MARY HOFFMAN	3733	

All participants (applicant, applicant's representative, PTO personnel):

(1) *MARY HOFFMAN*. (3)_____.

(2) *PAUL BIANCO*. (4)_____.

Date of Interview: *06 December 2010*.

Type: a)☒ Telephonic b)☐ Video Conference
c)☐ Personal [copy given to: 1)☐ applicant 2)☐ applicant's representative]

Exhibit shown or demonstration conducted: d)☐ Yes e)☒ No.
If Yes, brief description: _____.

Claim(s) discussed: *41 and 60*.

Identification of prior art discussed: *US patents 5,403,317 and 5,694,951.*.

Agreement with respect to the claims f)☐ was reached. g)☐ was not reached. h)☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: *See Continuation Sheet*.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Mary C. Hoffman/ Examiner, Art Unit 3733	

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record
A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews
Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.
All business with the Patent or 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.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:
- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:
1) A brief description of the nature of any exhibit shown or any demonstration conducted,
2) an identification of the claims discussed,
3) an identification of the specific prior art discussed,
4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
5) a brief identification of the general thrust of the principal arguments presented to the examiner,
   (The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
6) a general indication of any other pertinent matters discussed, and
7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The examiner informed Applicant that claims 41 and 60 have double patenting issues. Therefore the terminal disclaimers are still applicable because it appears that original claim 41 has a obviousness-type double patenting issue with claim 10 of patent 5,403,317 and original claim 60 has a double patenting issue with claims 1 of patents 5,403,317 and 5,694,951. The examiner informed Applicant that she would be in concurrence with the request to withdraw the terminal disclaimers if claims 41 and 60, and any dependent claims, were cancelled..

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OCT 4 2011

Natalie M. Derzko
Covington & Burling LLP
1201 Pennsylvania Ave, N.W.
Washington, DC 20004-2401

In Re: Patent Term Extension
Application for
U.S. Patent No. RE38506

Dear Ms. Derzko:

An interim extension under 35 U.S.C. § 156(e)(2) is enclosed extending the term of U.S. Patent No. RE38506 for a period of one 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: Zolinza® (vorinostat)
Docket No.: 2007E-0143

Attention: Beverly Friedman

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Sloan-Kettering Institute for Cancer Research	:	
and The Trustees of Columbia University	:	ORDER GRANTING
In the City of New York	:	INTERIM EXTENSION
Request for Patent Term Extension	:	
U.S. Patent No. RE38506	:	

Sloan-Kettering Institute for Cancer Research and The Trustees of Columbia University in the City of New York, the owners of record in the United States Patent and Trademark Office (USPTO) of U.S. Patent No. RE38506, filed an application for patent term extension under 35 U.S.C. § 156 on December 1, 2006. The original term of the patent is due to expire on November 29, 2011. The patent claims the active ingredient vorinostat in the human drug product Zolinza®, which was approved by the Food and Drug Administration for commercial marketing or use on October 6, 2006. An extension of 1,433 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. RE38506 is granted for a period of one year from the original expiration date of the patent.

David J. Kappos

September 30, 2011

Date

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6584984	2003-07-01	10004550	2001-12-04	5043.100

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles C Kinne/	Date (YYYY-MM-DD)	2011-08-19
Name	Charles C Kinne	Registration Number	31631

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6584984
Issue Date: July 1,2003
Application No. 10004550
Filed: December 4,2001
Attorney Docket No.

:
: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 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 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

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Alexandria, VA 22313-1450
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MAILED

NOV 17 2010

OFFICE OF PETITIONS

KOHN & ASSOCIATES, PLLC
30500 NORTHWESTERN HWY, SUITE 410
FARMINGTON HILLS, MI 48334

In re Application of
Michael A. Tainsky
Application No. 10/004,587
Filed: December 4, 2001
Attorney Docket No.: 0788.00063

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed September 10, 2010.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before September 9, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 9, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 10, 2010. A Notice of Abandonment was subsequently mailed on September 15, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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)
6477804	2002-11-12	10004991	2001-12-04	8403.452

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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Under 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	/klhester/	Date (YYYY-MM-DD)	2010-12-01
Name	Kathryn L. Hester, Ph.D.	Registration Number	46768

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6477804
Issue Date: November 12,2002
Application No. 10004991
Filed: December 4,2001
Attorney Docket No. 8403.452

:
: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 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 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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

MAILED

MAR 15 2011

OFFICE OF PETITIONS

In re Application of :
Anthony M. JEVNIKAR, et *al.* :
Application No. 10/005,073 : DECISION ON PETITION TO
Filed: December 7, 2001 : WITHDRAW FROM RECORD
Attorney Docket No. **024916-011** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2011.

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 request was signed by Teresa S. Rea on behalf of all attorneys of record. Teresa S. Rea has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

The application became abandoned for failure to timely respond to an Office action mailed July 21, 2010.

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
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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO IL 60606

MAILED

NOV 09 2011

OFFICE OF PETITIONS

In re Patent No. 6,709,737 :
Issue Date: March 23, 2004 :
Application No. 10/005,084 : ON PETITION
Filed: December 4, 2001 :
Attorney Docket No: 003248.00038\US :

This is in response to the paper filed October 25, 2011 requesting that status as a Small Entity be removed and for acceptance of a fee deficiency submission. The paper 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 under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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FEB 28 2011

OFFICE OF PETITIONS

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON DC 20001

In re Patent No. 7,584,240 : DECISION ON APPLICATION FOR
Issued: September 1, 2009 : PATENT TERM ADJUSTMENT and
Application No. 10/005,415 : NOTICE OF INTENT TO ISSUE
Filed: November 7, 2001 : CERTIFICATE OF CORRECTION
Dkt. No.: GENV-004/00US 300805-2007 :

This is a decision on the petition filed November 2, 2009 requesting that the patent term adjustment be increased from 765 days to 1435 days.

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**.

The patent is entitled to an overall adjustment of 1428 days.

The above-identified application issued as U.S. Pat. No. 7,584,240 on September 1, 2009. The patent issued with a patent term adjustment of 765 days. The instant application for patent term adjustment was timely filed November 2, 2009. Patentees assert entitlement to an additional adjustment of 757 days for the Office's failure to issue the patent within three years of the date that the application was filed.

Review of the record reveals an adjustment of 888 days pursuant to 37 CFR 1.703(a)(1), from January 8, 2003 to June 13, 2005.

The record further reveals an adjustment of 974 days pursuant to 37 CFR 1.703(b). As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period began on November 8, 2004 and ended July 9, 2007, the day before the RCE was filed, and not July 10, 2007. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over three year period is 974 days not 975 days.

However, the period of adjustment pursuant to 37 CFR 1.703(b) shall not include any time consumed by review by the Board of Patent Appeals. Accordingly, the period of adjustment of 974 days pursuant to 37 CFR 1.703(b) cannot include the period of 224 days from November 28,

2006, the date that the Notice of Appeal was filed, to July 9, 2007, the day before the date that the request for continued examination was filed.

Considering the excluded period from November 28, 2006 to July 9, 2007 of 224 days, the Office has determined that there are zero overlapping days.

Review of the record further reveals a reduction of 210 days for applicant delays pursuant to 37 CFR 1.704.

In view thereof, the patent is entitled to an overall adjustment of 1428 days (888 days pursuant to 37 CFR 1.703(a) + 974 days pursuant to 37 CFR 1.703(b) – 224 days pursuant to 37 CFR 1.703(b)(4) – 210 days pursuant to 37 CFR 1.704).

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. See, 37 CFR 1.323(a)(4).

Receipt is hereby acknowledged of the required $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 1428 days.

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.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,584,240

DATED : September 1, 2009 **DRAFT**

INVENTOR(S) : Eggers

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 765 days

Delete the phrase "by 765 days" and insert -- by 1428 days --

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)
6504445	2003-01-07	10005520	2001-12-07	REN21A-US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Andrew P. Cernota, Reg. No. 52,711/	Date (YYYY-MM-DD)	2011-03-14
Name	Andrew P. Cernota	Registration Number	52711

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6504445
Issue Date: January 7,2003
Application No. 10005520
Filed: December 7,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed March 14,2011 ,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 14,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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APR 08 2011

OFFICE OF PETITIONS

Roger A Heppermann
Marshall Gerstein & Borun LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, IL 60606-6357

In re Patent of Eggleston et al. :
Patent No. 7,243,901 :
Issue Date: July 17, 2007 : Letter
Application No. 10/005,534 :
Filing Date: November 8, 2001 :
Attorney Docket No. 06005/38302B :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed February 22, 2011.

The deficiency payment of $1,625 is hereby accepted.

The change of status to large entity has been entered and made of record.

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)
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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)
7076633	2006-07-11	10005590	2001-10-26	2230.0380001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/GB/	Date (YYYY-MM-DD)	2010-08-15
Name	GEORGE S. BARDMESSER	Registration Number	44020

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

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

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

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

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7076633
Issue Date: July 11,2006
Application No. 10005590
Filed: October 26,2001
Attorney Docket No. 2230.0380001/MBR/GSB

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

This is a decision on the electronic petition, filed August 15,2010 ,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 August 15,2010 . 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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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

SEP 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Holler et al.	:	DECISION ON PETITION
Application No. 10/005,729	:	TO WITHDRAW
Filed: November 6, 2001	:	FROM RECORD
Attorney Docket No. 71603-8016.US01	:	

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 3, 2010.

The request is **NOT APPROVED**.

The Office strongly encourages practitioner(s) requesting withdrawal from representation as practitioner of record in an application to review the record to determine whether he or she is, in fact, of record and how he or she was made of record. For example, the practitioner(s) should determine whether he or she was appointed by naming each practitioner individually or through the use of a Customer Number. If the practitioner(s) was appointed by a specific designation, then the Request should ask that each specified practitioner be withdrawn and should list each practitioner(s) in the Request.

In the instant application, the practitioner was appointed via Customer Number. However, the person signing the Request to Withdraw is not an attorney/agents associated with Customer Number 22918. Therefore, the request cannot be granted at this time.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

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)
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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)
6,669,546	2003-12-30	10/005,763	2001-12-07	LONG21

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SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Ronni S. Jillions/	Date (YYYY-MM-DD)	2012-03-04
Name	Ronni S. Jillions	Registration Number	31979

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6669546
Issue Date: December 30,2003
Application No. 10005763
Filed: December 7,2001
Attorney Docket No. LONG=21

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

This is a decision on the electronic petition, filed March 5,2012 ,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 5,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/04/10

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10006103 Patent No.: 7255484

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 Director/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: Requested correction does not change the scope of the disclosure.

/Sung H. Pak/ Primary Examiner, AU 2874

/UYEN-CHAU N. LE/ 2874

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

JOHN R. SCHUCK
P.O. BOX 14040
EVANSVILLE IN 47728

MAILED

MAR 27 2012

OFFICE OF PETITIONS

In re Patent No. 6,644,761 :
Issue Date: November 11, 2003 :
Application No. 10/006,152 : ON PETITION
Filed: October 22, 2001 :
Title: TOWED VEHICLE BRAKE :
ACTUATION SYSTEM

This is a decision on the petition under 37 CFR 1.378(c), filed February 13, 2012, to accept the unintentionally 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 $400.00 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 (2) above.

Petitioner only submitted $565.00 towards payment of the $1425.00 maintenance fee. Accordingly, an additional $860.00, along with the $400.00 reconsideration fee, must be submitted to reinstate the instant patent.

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

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

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

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

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

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

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: JOHN ROBERT SCHUCK
7457 W. STATE ROUTE 66
NEWBURGH, IN 47630

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS MN 55440-1022

MAILED
FEB 02 2012
OFFICE OF PETITIONS

In re Application of :
Perelman et al. :
Application No. 10/006260 : DECISION ON APPLICATION
Filing or 371(c) Date: 11/02/2001 : FOR PATENT TERM ADJUSTMENT
Attorney Docket Number: :
07844-501001 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed January 5, 2012. Applicants petition for reconsideration of the patent term adjustment calculation to 2832 days, not 2805 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in calculating a reduction of two (2) days pursuant to 37 CFR 1.704(b), and erred in failing to calculate an adjustment of 13 days pursuant to 37 CFR 1.702(a)(2).

The Application for Patent Term Adjustment under 37 CFR 1.705(b), is **GRANTED TO THE EXTENT INDICATED HEREIN**.

The application was filed on November 2, 2001. On October 28, 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 (PTA) to date is 2805 days.

On January 5, 2012, Applicants timely submitted the present application for patent term adjustment[1]. Applicants assert that the Office erred in calculating a reduction of two (2) days pursuant to 37 CFR 1.704(b), in connection with the filing of a Notice of Appeal in reply to a final Office action mailed July 19, 2005. Applicants aver that the Notice of Appeal was filed on October 19, 2005, and that the Office errantly entered the filing date of the Notice of Appeal as November 1, 2005, three months and two (2) days after the mailing of the final Office action.

Applicants also assert that the Office erred in failing to calculate an adjustment of 13 days in connection with the mailing of an Office action on November 13, 2007, four (4) months and 13

[1] Office records show that the Issue Fee payment was received in the Office on January 26, 2012.

days after the mailing of the Decision of the Board of Patent Appeals and Interferences ("Board").

Applicants' arguments have been carefully considered. A review of Office records confirms that Applicants filed a Notice of Appeal in reply to a final Office action mailed July 19, 2005, on November 1, 2005. A review of the Notice of Appeal reveals that it contains a Certificate of Transmission by Facsimile dated November 1, 2005. Office records further reveal that Applicants included with the Notice of Appeal a request and fee for a one (1) month extension of time, and this Office received the fee for a one (1) month extension of time on November 1, 2005. In view of the foregoing, the reduction of two (2) days in connection with the filing of a Notice of Appeal in reply to a final Office action mailed July 19, 2005, on November 1, 2005, is appropriate and will not be removed.

Office records also confirm that after the Board's decision, mailed on June 15, 2011, this Office mailed a Notice of Allowance and Issue Fee Due on October 18, 2011, four months and 13 days after the mailing of the Board's Decision. Pursuant to 37 CFR 1.702(a)(3), an entry of a period of adjustment of 13 days is appropriate.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is 2818 days, subject to any terminal disclaimer.

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).

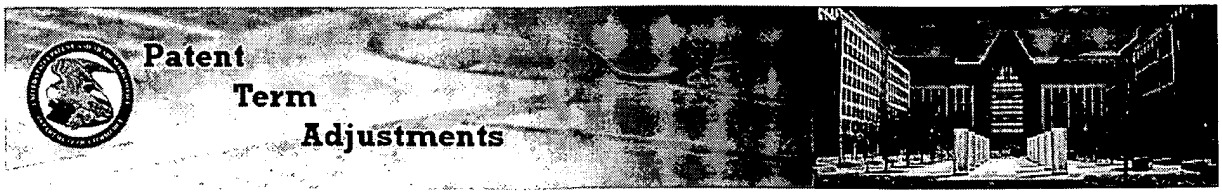
The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing 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 matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10006260 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10006260

Application Filing Date	11/02/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	2809
A Delays	756	PTO Manual Adjustment	13
B Delays	0	Applicant Delay (APPL)	4
C Delays	2053	Total PTA (days)	2818

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
103	01/31/2012		P028	Adjustment of PTA Calculation by PTO	13		0
89	10/28/2011		MN/=.	Mail Notice of Allowance			0
88	10/26/2011		OAR	Office Action Review			0
87	10/26/2011		OAR	Office Action Review			0
86	10/26/2011		OAR	Office Action Review			0
85	10/21/2011		OAR	Office Action Review			0
84	10/21/2011		OAR	Office Action Review			0
83	10/21/2011		OAR	Office Action Review			0
82	10/21/2011		OAR	Office Action Review			0
81	10/21/2011		OAR	Office Action Review			0
80	10/21/2011		OAR	Office Action Review			0
79	10/11/2011		OAR	Office Action Review			0
78	10/11/2011		OAR	Office Action Review			0
77	10/11/2011		OAR	Office Action Review			0
76	10/11/2011		DVER	Document Verification			0
75	10/11/2011		IREV	Issue Revision Completed			0
74	10/03/2011		OAR	Office Action Review			0
73	10/03/2011		OAR	Office Action Review			0
72	10/03/2011		OAR	Office Action Review			0
71	10/03/2011		OAR	Office Action Review			0
70	10/03/2011		OAR	Office Action Review			0
69	10/03/2011		OAR	Office Action Review			0
68	10/03/2011		N/=.	Notice of Allowance Data Verification Completed			0
67	10/03/2011		EX.A	Examiner's Amendment Communication			0
65	10/03/2011		CNTA	Allowability Notice			0
66	09/29/2011		EXIE	Interview Summary - Examiner Initiated			0
64	06/15/2011		ELC_RVW	Electronic Review			0
63	06/15/2011		EML_NTF	Email Notification			0
62	06/15/2011	11/01/2005	MAPDR	Mail BPAI Decision on Appeal - Reversed	2053		33
61	06/13/2011		APDR	BPAI Decision - Examiner Reversed			0
60	02/17/2010		INHY	case Inherited			0
57	06/04/2009		EML_NTR	Email Notification			0
56	06/04/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
55	06/02/2009		APAS	Assignment of Appeal Number			0
54	04/14/2009		APWD	Appeal Awaiting BPAI Docketing			0
53	04/09/2009		EML_NTR	Email Notification			0
52	04/09/2009		MM327	Mail Miscellaneous Communication to Applicant			0
51	04/04/2009		M327	Miscellaneous Communication to Applicant - No Action Count			0
49	10/07/2008		DOCK	Case Docketed to Examiner in GAU			0
48	12/19/2007		LET.	Miscellaneous Incoming Letter			0
47	11/13/2007		MM327	Mail Miscellaneous Communication to Applicant			0
46	11/09/2007		M327	Miscellaneous Communication to Applicant - No Action Count			0
50	07/12/2007		APRD	Order Returning Undocketed Appeal to the Examiner			0
45	06/28/2007		APWD	Appeal Awaiting BPAI Docketing			0
44	09/08/2006		MRBNE	Mail Reply Brief Noted by Examiner			0
43	09/05/2006		RBNE	Reply Brief Noted by Examiner			0
42	06/27/2006		FWDX	Date Forwarded to Examiner			0
39	06/14/2006		DOCK	Case Docketed to Examiner in GAU			0
41	06/09/2006		APRB	Reply Brief Filed			0
38	04/10/2006		MAPEA	Mail Examiner's Answer			0
37	03/31/2006		APEA	Examiner's Answer to Appeal Brief			0
36	01/25/2006		FWDX	Date Forwarded to Examiner			0
35	01/03/2006		AP.B	Appeal Brief Filed			0
32	11/03/2005		MAPCP	Mail Appeals conf. Proceed to BPAI			0
34	11/01/2005		AP.C	Request for Pre-Appeal Conference Filed			0
33	11/01/2005		N/AP	Notice of Appeal Filed			0

31	10/31/2005		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
30	10/21/2005		AP.C	Request for Pre-Appeal Conference Filed			0
29	10/21/2005	10/19/2005	N/AP	Notice of Appeal Filed		2	21
28	10/21/2005		XT/G	Request for Extension of Time - Granted			0
27	10/06/2005		MCTAV	Mail Advisory Action (PTOL - 303)			0
26	10/03/2005		CTAV	Advisory Action (PTOL-303)			0
23	09/23/2005		FWDX	Date Forwarded to Examiner			0
22	09/19/2005		A.NE	Amendment after Final Rejection			0
21	07/19/2005		MCTFR	Mail Final Rejection (PTOL - 326)			0
20	07/18/2005		CTFR	Final Rejection			0
17	05/18/2005		FWDX	Date Forwarded to Examiner			0
19	04/29/2005		RCAP	Reference capture on IDS			0
18.7	04/29/2005	04/29/2005	M844	Information Disclosure Statement (IDS) Filed			16
18	04/29/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
16	04/29/2005	04/27/2005	A...	Response after Non-Final Action		2	13
15	04/28/2005		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
14	04/26/2005		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
13	01/27/2005	01/02/2003	MCTNF	Mail Non-Final Rejection	756		0.5
12	01/21/2005		CTNF	Non-Final Rejection			0
11	01/06/2005		DOCK	Case Docketed to Examiner in GAU			0
10	10/28/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
9	12/30/2003		DOCK	Case Docketed to Examiner in GAU			0
8	12/12/2003		DOCK	Case Docketed to Examiner in GAU			0
40	03/26/2002		RCAP	Reference capture on IDS			0
6	02/24/2002		DOCK	Case Docketed to Examiner in GAU			0
5	01/17/2002		OIPE	Application Dispatched from OIPE			0
4	01/15/2002		COMP	Application Is Now Complete			0
2	12/19/2001		SCAN	IFW Scan & PACR Auto Security Review			0
1	11/02/2001		IEXX	Initial Exam Team nn			0
0.5	11/02/2001		EFILE	Filing date			0

Export to: Excel

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Date Mailed : November 12, 2010
Serial No. :10/006921
Patent No. :7,215,673
Patent Issued :May 8, 2007
Title :MULTIPLEXING AND DEMULTIPLEXING METHOD AND APPARATUS

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

Respecting the alleged errors noted in your request, the changes you requested in columns 11 and 12 can not be done, since there is no column 11 or 12 in this patent.

In view of the foregoing your request in this is hereby denied.

Magdalene Talley
For Cecelia B. Newman, Supervisor
Decisions and Certificate
Of Correction Branch
(703)308-9390 ext. 116
Fax (571) 270- 99421

Ware, Fressola,
Van Der Dluys & Adolphnson LLP
755 Main Street,
P.O. Box 224
Monroe, CT 06468

CBN/mt

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)
6782596	2004-08-31	10007051	2001-12-06	UNCC2000-030

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher L. Bernard/	Date (YYYY-MM-DD)	2010-08-06
Name	Christopher L. Bernard	Registration Number	48234

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6782596
Issue Date: August 31,2004
Application No. 10007051
Filed: December 6,2001
Attorney Docket No. UNCC2000-030

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

This is a decision on the electronic petition, filed August 6,2010 ,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 August 6,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6940697	2005-09-06	10007259	2001-12-05	

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Benoit Castel/	Date (YYYY-MM-DD)	2010-12-08
Name	Benoit CASTEL	Registration Number	35041

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

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. 6940697
Issue Date: September 6,2005
Application No. 10007259
Filed: December 5,2001
Attorney Docket No. 139-006

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

This is a decision on the electronic petition, filed December 8,2010 ,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 8,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HAMRE, SCHUMANN, MUELLER & LARSON, P.C.
P.O. BOX 2902
MINNEAPOLIS MN 55402-0902

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Aaron V. Kaplan et al. :
Patent No. 7,226,458 : NOTICE
Application No. 10/007,364 :
Filed: November 05, 2001 :
Attorney Docket No. **20043.0003USD4**

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

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

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

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

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: **CLARK A. D. WILSON**
GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA, GA 30339

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)
6670947	2003-12-30	10007424	2001-10-22	210.0003

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

SMALL ENTITY

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

LOSS 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

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.

Patent Practitioner			
A signature of the applicant or representative is required 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 Kim /	Date (YYYY-MM-DD)	2012-04-04
Name	Daniel Kim	Registration Number	32250

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

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

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

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

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

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

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

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

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

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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. 6670947
Issue Date: December 30,2003
Application No. 10007424
Filed: October 22,2001
Attorney Docket No.

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

This is a decision on the electronic petition, filed April 4,2012 ,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 4,2012 .
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 : 5/12/10 Paper No.: ✓

TO SPE OF : ART UNIT 2874

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/007494 Patent No.: 7128474 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: Request for Certificate of Correction to correct typographical errors and does not change the scope of the claims.

/UYEN-CHAU N. LE/ 2874

UNITED STATES PATENT AND TRADEMARK OFFICE

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

D. MORGAN TENCH
1180 CORTE RIVIERA
CAMARILLO CA 93010

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 6,565,227	:	
Issue Date: May 20, 2003	:	
Application No. 10/007,718	:	DECISION ON PETITION
Filed: November 13, 2001	:	
Attorney Docket No. 01GD001	:	

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.

The petition is **GRANTED**.

This patent expired on May 20, 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 petition states that the "abandonment of this application was unintentional." 37 CFR 1.378(c) requires a statement that "the delay in payment of the maintenance fee was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.378(c)(3), the statement will be construed as the statement required by 37 CFR 1.378(c)(3). If this is an incorrect reading of the statement appearing in the petition, petitioner must promptly notify the Office.

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
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Alexandria, VA 22313-1450
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MAILED

MAY 02 2011

OFFICE OF PETITIONS

SMITH RISLEY TEMPEL SANTOS LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

In re Patent No. RE38815 :
Issue Date: October 11, 2005 :
Application No. 10/008,676 : ON PETITION
Filed: December 6, 2001 :
Attorney Docket No. 22130.0004U2 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 16, 2011, to accept the unintentionally 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 above, 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) above.

As to item (1) the statement of unintentional delay is presently not acceptable since the petition not signed by a proper party. See 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 signature of Thomas E. Bray is not recognized as a person of interest in this patented application. If this person is an assignee, then a statement under 37 CFR 3.73(b) should be submitted or with a renewed petition. If a registered patent agent/attorney then a registration number should be provided.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Thomas E. Bray
3625 Brookside Parkway, Suite 500
Alpharetta, GA 30005

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 08 2011

OFFICE OF PETITIONS

SMITH RISLEY TEMPEL SANTOS LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

In re Patent No. RE38815 :
Issue Date: October 11, 2005 :
Application No. 10/008,676 : CORRECTED DECISION ON PETITION:
Filed: December 6, 2001 :
Attorney Docket No. 22130.0004U2

This is a corrected decision on the petition under 37 CFR 1.378(c), filed February 16, 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 11, 2010, for failure to pay the eleven and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The 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.

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

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Thomas E. Bray
3625 Brookside Parkway, Suite 500
Alpharetta, GA 30005

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United States Patent and Trademark Office
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Haviv Toledano
c/o David Metzman
693 Downing Street
Teaneck NJ 07666

MAILED
JAN 19 2011
PCT LEGAL ADMINISTRATION

In re Application of
TOLEDANO
Application No.: 10/009,138
Filing Date: 26 November 2001
For: FLEXIBLE ANNULAR STAPLER FOR CLOSED SURGERY OF HOLLOW ORGANS

DECISION

This is a decision on applicant's fax transmission filed in the U.S. Patent and Trademark Office (USPTO) on 17 December 2010, which has been treated as a petition under 37 CFR 1.181 requesting that the requirement for filing a petition under 37 CFR 1.78 in order to perfect the benefit claim be withdrawn. The petition is **DISMISSED** without prejudice as discussed below.

BACKGROUND

On 26 November 2001, applicant filed the present application, the application papers included, *inter alia*, a transmittal letter for a filing under 35 U.S.C. 371 and an indication that the application was a divisional of application No. 09/214,039.

On 31 January 2003, the USPTO issued a filing receipt indicating that the application was a filing under 35 U.S.C. 371 of PCT/IB97/00887.

On 16 March 2004, this office issued a decision vacating the filing receipt and indicating that, in view of the conflicting instructions present on the filing date, the application was a filing under 35 U.S.C. 111.

On 30 November 2004, the USPTO issued a corrected filing receipt indicating that the application was a divisional application of application No. 09/214,039 which was the national stage filing under 35 U.S.C. 371 of PCT/IB97/00887.

On 08 September 2008, applicant filed a request for an amendment to the specification which requested that the first sentence of the specification be amended to include reference to the '309 application and the '887 application as well as to intermediate application 09/846,362.

On 12 June 2008, the USPTO mailed a non-final office action indicating that the application was not entitled to the claim for benefit to the prior filed applications in view of the fact that applicant had not satisfied the requirements of 35 U.S.C. 120 and 37 CFR 1.78(a), and that a petition under 37 CFR 1.78(a)(3) was required in order to perfect the claim. This indication was reiterated in a final rejection mailed 27 October 2010.

On 17 December 2010, applicant filed the present petition.

DISCUSSION

35 U.S.C. 120 states, in part,:

> ...No application shall be entitled to the benefit of an earlier filed application under this section unless an amendment containing the specific reference to the earlier filed application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this section. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section.

Further, 37 CFR 1.78(a) states, in part,:

> ...any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending nonprovisional applications or international applications designating the United States of America 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) or international application number and international filing date and indicating the relationship of the applications...
>
> ...This reference must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application...These time periods are not extendable. Except as provided in paragraph (a)(3) of this section, the failure to timely submit the reference required by 35 U.S.C. 120 and paragraph (a)(2)(i) of this section is considered a waiver of any benefit under 35 U.S.C. 120, 121, or 365(c) to such prior-filed application
>
> ...If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title...

As is clear from the language of the statute and the regulations which govern the claiming of the benefit of earlier filed applications, in order for an application to be entitled to the benefit of an earlier filed application, applicants are required to submit either an application data sheet or an

amendment to the first line of the specification which contains a reference to each prior-filed application (identified by its application number, consisting of the series code and serial number) or international application number and international filing date and indicating the relationship of the applications within the requisite time limit. For the present application, i.e., one filed under 35 U.S.C. 111(a), the requisite time limit expired four months from the actual filing date of the application, i.e., on 26 March 2002.

A review of the application file reveals that applicant did not submit the necessary amendment to the application until 08 September 2008. Therefore, applicant is not entitled to claim the benefit of the prior filed applications absent the filing of a grantable petition under 37 CFR 1.78(a)(3), as discussed below.

As is provided by 35 U.S.C. 120, the Director may establish procedures to accept an unintentionally delayed submission of an amendment to the application setting forth a claim for benefit of an earlier filed application. The USPTO has established such a procedure and it is set forth in 37 CFR 1.78(a)(3), which states:

> (3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:
>
> > (i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;
> >
> > (ii) The surcharge set forth in § 1.17(t); and
> >
> > (iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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.

Therefore, if the entire delay in presenting the necessary amendment to the application was unintentional, applicant may petition to have the benefit of the earlier filed applications reinstated.

It is noted that applicant sets forth multiple arguments as to why the requirement for the filing of a petition and the requisite petition fee in order to reinstate applicant's right to claim the benefit of the earlier filed applications is not justified. Applicant's arguments have been considered, but have not been found to be persuasive. Specifically, it is first noted that applicant is not being held responsible for processing errors by the USPTO. The fact that multiple filing receipts needed to be issued 1) is the result of errors made by applicant in the filing of the present application , and 2) had no bearing on applicant's failure to timely amend the application as required. Further, the fact that the matter was "close at hand and nothing was hidden from the

USPTO" does not excuse the fact that applicant failed to timely amend the application in the manner required by the regulations. Additionally, the fact that applicant has now amended the application to include a specific reference to the prior filed applications is not in dispute. The fact remains that the amendment was not filed until more than six years after the time limit set forth in the regulations for filing such an amendment had expired. Similarly, the fact that the application contained references to the '362 application in the declaration and in the remarks which accompanied a preliminary amendment again does not excuse the fact that applicant failed to timely amend the application in the manner required until more than six years after the time limit set forth in the regulations had expired. Finally, the present application is not a national stage filing under 35 U.S.C. 371 of an international application filed before November 29, 2000, as argued by applicant. The present application is, as set forth in the 16 March 2004 decision, an application filed under 35 U.S.C. 111(a), and as such is not subject to the exclusion set forth in 37 CFR 1.78(a)(2)(ii)(C).

CONCLUSION

For the reasons above, the petition is **DISMISSED** without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181". No additional petition fee is required.

Extensions of time may be obtained under 37 CFR 1.136(a).

In accordance with 37 CFR 1.181(f), neither the present submission, this decision, nor any renewed petition, will stay any period for reply that may be running against the application, nor act as a stay of other proceedings. As such, any time periods resulting from the final office action mailed 27 October 2010, continue to run.

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.

Richard R. Cole
Senior PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281

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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AKERMAN SENTERFITT
8100 BOONE BOULEVARD
SUITE 700
VIENNA VA 22182-2683

MAILED

OCT 13 2010

OFFICE OF PETITIONS

In re Patent No. 7,174,024 :
Issued: February 6, 2007 :
Application No. 10/009,519 : ON PETITION
Filed: December 11, 2001 :
Attorney Docket No. 99999.1126 :

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Gill Lennon
Dennemeyer & Co. LTD
Regent House Heaton Lane
Stockport Cheshire
England SK4 1BB

UNITED STATES PATENT AND TRADEMARK OFFICE

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KING & SPALDING LLP
401 CONGRESS AVENUE
SUITE 3200
AUSTIN TX 78701

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of :
Bernhard RAAF :
Application No. 10/009,858 : DECISION ON PETITION
Filed: December 22, 2001 :
Attorney Docket No. 03869.105716 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file corrected drawings on or before April 7, 2010. As required by the Notice of Allowance and Fee(s) Due, mailed January 7, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form replacement drawings; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

The amendment filed with the petition on June 24, 2010, has been approved by the examiner assigned to this application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.
The application is being referred to the Office of Data Management for processing into a patent.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FULBRIGHT & JAWORSKI, L.L.P.
600 CONGRESS AVENUE
SUITE 2400
AUSTIN TX 78701

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,575,924	:	DECISION ON REQUEST
Trono, et al.	:	FOR
Issue Date: August 18, 2009	:	RECONSIDERATION OF
Application No. 10/010,081	:	PATENT TERM ADJUSTMENT
Filed: November 9, 2001	:	and
Atty. Docket No. CLFR:010US/ 10110677	:	NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 18, 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 seventy-eight (2,078) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, three hundred and sixty (1,360) days[1] is **GRANTED to the extent indicated herein.**

[1] The period of overlap between the "A" delay and the "B" delay is 0 days, not 89 days as patentees state. It is noted that, in this case where no Request for Continued Examination was filed, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, from the filing date of the application to the issue date of the patent. It is further noted that "A" delays and "B" delays overlap only if such delays occur on the same calendar day. The relevant period of "B" delay began January 26, 2007, and ended August 18, 2009. There is no period of "A" delay and "B" delay that occur on the same calendar day Thus, the period of overlap between the "A" delay and the "B" delay is 0 days.

It is noted that patentees failed to account for the filing of the notice of appeal on February 13, 2006. The Office reminds patentees that 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). In this instance, the period consumed by appellate review is 807 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, February 13, 2006, and ending on the date the Decision on Appeal affirming the examiner was mailed, April 19, 2008. Thus, the B delay is 936 days (1743 - 807). Accordingly, the patent term adjustment is 1360 days (503 days of A delay + 936 days of B delay - 0 days of overlap - 79 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 one thousand three hundred and sixty **(1,360)** 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 : 7,575,924 B2

DATED : Aug. 18, 2009

INVENTOR(S) : Trono 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 (1664) days

Delete the phrase "by 1664 days" and insert – by 1360 days--

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APR 16 2012
OFFICE OF PETITIONS

MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH NC 27627

In re Patent No. 7,169,819 :
Issue Date: January 30, 2007 :
Application No. 10/010,914 : ON PETITION
Filed: December 5, 2001 :
Attorney Docket No. 9022.30 :

This is a decision on the petition filed March 7, 2012, which is being treated as a petition under 37 CFR 3.81(b) to add assignee The Government of the United States of America, as represented by The Secretary of the Department of Health and Human Services, Rockville, MD on the front page of the above-identified patent by way of a certificate of correction.

The petition is **DISMISSED**.

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

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter [emphasis added]. *See also* MPEP 1481.01.

U.S. Patent and Trademark Office assignment records disclose that an assignment reflecting the addition of The Secretary of the Department of Health and Human Services as a joint assignee was recorded on March 17, 2008, **after the date of issuance of this patent**. Accordingly, since the assignment reflecting the additional assignee name was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper.

Charlema Grant
Attorney Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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DIW Jan-12

Paper No.

GARVEY SMITH NEHRBASS & NORTH, LLC
LAKEWAY 3, SUITE 3290
3838 NORTH CAUSEWAY BLVD.
METAIRIE LA 70002

MAILED
JAN 13 2012
OFFICE OF PETITIONS

In re Patent No. 6,848,864	:	
Issue Date: 02/01/2005	:	
Application Number: 10/011,678	:	ON PETITION
Filing Date: 12/04/2001	:	
Attorney Docket Number:	:	
A01026US (98462/1)	:	

This is a decision on the petition under 37 CFR 1.378(c), filed on June 1, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on February 1, 2009, for failure to timely 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.

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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DTW Dec-11

JOSEPH P. GASTEL
295 MAIN ST.
SUITE 722
BUFFALO NY 14203

MAILED
DEC 2 2 2011
OFFICE OF PETITIONS

In re Patent No. 6,701,697 :
Issue Date: 03/09/2004 :
Application Number: 10/012,186 : LETTER
Filing Date: 12/04/2001 :
For: CAROUSEL BAGGER :

This is a communication in response to the letter styled as a petition, filed on November 29, 2011, concerning the expiration of the above-identified patent.

The Office can neither grant nor deny the petition because it is not accompanied by payment of the requisite petition fee and maintenance fee. Specifically, the deposit account number listed on the petition cannot be charged because proper authorization to charge the deposit account has not been provided. In this regard, the petition is not signed by an authorized user or on behalf of the deposit account holder.

Any petition to accept delayed payment of a maintenance fee must be accompanied by the required maintenance fee set forth in 37 CFR 1.20(e)-(g) and the surcharge set forth in 37 CFR 1.20(i)(1) or (2). Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable. 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 and the maintenance fee.

A petition accompanied by the required fees must be filed. Any reply to this letter should be filed within **ONE (1) MONTH or THIRTY (30) DAYS**, whichever is longer, to be considered a timely reply. 37 CFR 1.181(f). This time period may not be extended.

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

A reply may also be filed via EFS-Web.

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.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/123

cc: HODGSON RUSS LLP
140 PEARL ST, SUITE 100
BUFFALO NY 14202-4040

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

HODGSON RUSS LLP
THE GUARANTY BUILDING
140 PEARL STREET
SUITE 100
BUFFALO NY 14202-4040

MAILED

MAR 14 2012

OFFICE OF PETITIONS

In re Patent No. 6,701,697 :
Issue Date: 03/09/2004 :
Application Number: 10/012,186 : DECISION ON PETITION
Filing Date: 12/04/2001 :
Attorney Docket Number: 3401 :

This is a decision on the papers filed on January 13, 2012, which are treated as a petition under 37 CFR § 1.378(b) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

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

The patent issued on March 9, 2004. The first maintenance fee could have been paid from March 9 through September 10, 2007, or, with a surcharge during the period from September 11, 2007, through March 9, 2008. Accordingly, the patent expired at

midnight March 9, 2008, for failure to timely submit the first maintenance fee.

On November 29, 2011, a paper styled as a petition under 37 CFR 1.378(b) was filed. On December 22, 2011, however, the Office mailed a letter stating that the petition could neither be granted nor denied because the petition was not accompanied by the required maintenance fee and surcharge under § 1.20(i)(1). Specifically, although petitioner attempted to provide authorization to charge a deposit account, the petition was not signed by an authorized user or on behalf of the deposit account holder.

On January 13, 2012, the subject petition was filed, along with authorization to charge the maintenance fee and surcharge to counsel's deposit account. Petitioner asserts, in the subject papers, that proper authorization to charge the deposit account was nevertheless provided in the papers filed on November 29, 2011 in that Page 4 was signed by registered patent practitioner Rachel S. Watt.

The signature of the registered practitioner on Page 4 of the petition papers filed on November 29, 2011 constituted only a signature as to the statement under 37 CFR 1.378(d) and the statement of unavoidable delay, **not** a signature of the petition or authorization for the Office to charge the deposit account. The petition was signed by Andy Currie, President of Ag-Pak, the assignee of record. While a petition under 37 CFR 1.378(b) may be signed on behalf of an assignee, the showing of record is undisputed that Mr. Currie was not, and is not, an authorized user of counsel's deposit account, and could not sign on behalf of the deposit account holder.

Petitioner, assignee Ag-Pak, states, via the signature of Mr. Currie, that it relied upon registered patent practitioner Joseph P. Gastel ("Gastel"), to pay the maintenance fee. Petitioner states that Gastel died on June 23, 2005. Petitioner has supplied an Internet printout of the obituary notice. Further, petitioners have supplied a letter, dated March 15, 2004, from Gastel to petitioners in which Gastel states, in pertinent part.

> Annuities will be due on the patent by its 3 1/2, 7 1/2, and 11 1/2 year anniversary dates, namely September 9, 2007, September 9, 2011, and September 9, 2015, respectively. The foregoing has been placed on my docket.

The statement by Mr. Currie further avers:

> The '697 Patent issued on March 9, 2004. On March 15, 2004, the attorney of record, Joseph P. Gastel ("Attorney Gastel"), sent a letter (copy attached) to the Petitioner reporting issuance of the subject patent and noting deadlines for paying "annuities." In accordance with Attorney Gastel's letter, and in keeping with past practices, Petitioner understood that Attorney Gastel would remind the Petitioner of the deadlines and attend to payment of the "annuities." Attorney Gastel died on June 23, 2005. A copy of Attorney Gastel's obituary is attached.
>
> The United States Patent And Trademark Office ("USPTO") was notified of Attorney Gastel's death. To the best of Petitioner's knowledge, the USPTO was notified of Attorney Gastel's death prior to the due date of the first maintenance lee. The USPTO records at the Office Of Enrollment And Discipline ("OED") were updated, but the USPTO's records corresponding to the '697 Patent were not updated. Petitioner's current attorneys, Hodgson Russ LLP, first contacted OED on November 15, 2011, requesting the date on which OED was notified of Attorney Gastel's death. Numerous telephone calls were subsequently placed, but to date, OED has not provided Hodgson Russ LLP with the requested date of notification.
>
> Petitioner did not receive any maintenance fee reminders and did not receive any notice that the '697 Patent expired. It is believed the USPTO sent such notices to Mr. Gastel's former address.
>
> Petitioner was not aware that the maintenance fees were not paid, nor was Petitioner aware that the '697 Patent expired until November 7, 2011. On or about November 4, 2011, an employee of the Petitioner asked the undersigned about the patent. Upon investigating the '697 Patent and making an inquiry on the afternoon of November 7, 2011 to R. Kent Roberts ("Attorney Roberts"), the undersigned learned that the '697 Patent expired for failure to pay the first and second maintenance fees.
>
> The petitioner had an arrangement with Attorney Gastel which should have resulted in payment of the

> maintenance fees, or at least a reminder to the Petitioner of the deadlines, which would have resulted in subsequent payment of the maintenance fees. But for Attorney Gastel's death, an unavoidable event with respect to the Petitioner, the maintenance fees would have been timely paid.
>
> Also, the records of the USPTO with respect to the '697 Patent were not updated, despite notice to the USPTO. The inability and/or failure to update the records of the '697 Patent to match those at the OED was unavoidable with respect to the Petitioner. Petitioner's address was on file with the USPTO and easily found with little effort via the assignments database. But for the erroneous information corresponding to the '697 Patent, notices pertaining to maintenance fees and/or expiration sent by the USPTO with respect to the '697 Patent would have been received by the Petitioner, and the maintenance lees would have been timely paid.

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]

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

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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)).

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]

Petitioner's contention that the delay in payment of the first maintenance fee was unavoidable because of the death of petitioner's registered patent attorney, Gastel, is inadequate to establish unavoidable delay.

Inasmuch as petitioner's attorney, Gastel, assumed responsibility for payment of maintenance fees, assuming that Gastel, as petitioners' registered patent attorney had been so engaged, then it is incumbent upon petitioners to demonstrate, via a documented showing, that Gastel had docketed this patent for the first maintenance fee payment in a reliable tracking system.[5] If petitioner cannot establish that Gastel had been so engaged, then petitioner will have to demonstrate what steps were established by petitioner to monitor and pay the maintenance fee.[6]

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[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).

[5] Id.

[6] Id.

Petitioner is reminded that any errors or omissions of Gastel did not relieve petitioner from his obligation to exercise diligence with respect to this patent.[7] In the absence of an adequate showing of petitioners' diligence in this matter throughout the period in question, the actions or inactions of the registered practitioners will remain imputed to petitioner.[8]

With regard to petitioner's assertion that Gastel would either notify petitioner that the maintenance fees were due, or pay the maintenance fees," petitioner may wish to consider researching Gastel's docketing system. An explanation of the docketing system and statements from anyone who was employed by Gastel in docketing patents for payment of the maintenance fee, explaining the steps in place for docketing and paying the maintenance fee(s), should be provided with any renewed petition in the form of an affidavit or declaration of fact by any person with firsthand knowledge of the circumstances, setting forth the facts as they know them. Petitioners must further state whether any other registered practitioner assumed responsibility for Gastel's patent portfolio after his death, and, if so, whether that practitioner docketed and tracked the maintenance fee for the subject patent.

Lastly, with regard to petitioner's failure to receive communication regarding the maintenance fee, delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay.[9] Specifically, delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c), and 37 CFR 1.378(b).[10] Furthermore, while petitioner allegedly chose to rely upon counsel, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).[11] Rather, reliance merely shifts the focus of the inquiry from petitioner to whether the practitioner acted reasonably and prudently.[12]

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[7] Douglas v. Manbeck, 1991 U.S. Dist. LEXIS 16404, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (applicant's failure over two and one half year period, to exercise any diligence in prosecuting his application overcame and superseded any omissions on the part of his representative).

[8] See In re Lonardo, 17 USPQ2d 1455 (Comm'r Pat. 1990).

[9] In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

[10] See Ray, at 619, 34 USPQ2d at 1789.

[11] See California Medical Products v. Technol Med. Prod., 921 F. Supp. 1219, 1259. (D. Del. 1995).

[12] Id.

Nevertheless, petitioner is bound by any errors that may have been committed by counsel.[13] Petitioner should also note that the U.S. Patent and Trademark Office is not the proper forum for resolving disputes between patentees and their representatives.

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[14] Specifically petitioners' delay caused by the mistakes or negligence of their voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c)(1) or 37 CFR 1.378(b).[15] Petitioners were not forced, but rather made a conscious decision to obtain the services of the chosen representative in payment of the maintenance fees for this patent, and therefore must be held accountable for his actions, or lack thereof, before the Office.

Petitioner's contention that he did not receive any notification from the USPTO that the maintenance fee was due is not well taken. 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.[16] Under the statute and regulations, the Office has no duty to notify patentees of the requirement to pay maintenance fees or to notify patentees when the maintenance fees are due. The Office mailing of Maintenance Fee Reminders is carried out strictly as a courtesy. Accordingly, it is solely the responsibility of the patentee to assure that the maintenance fee is timely paid to prevent expiration of the patent. The lack of knowledge of the requirement to pay a maintenance fee and/or the failure to receive the Maintenance Fee Reminder will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office.[17]

Likewise, the responsibility for determining that Gastel had died and was no longer able to track and pay the maintenance fees was that of petitioner, not the Office. In this regard, while

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[13] California, supra.

[14] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[15] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[16] *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).

[17] Rydeen v. Quigg, 748 F. supp. at 900.

petitioner states that it discovered that the subject patent expired on November 7, 2011, petitioner has not stated when it learned that Gastel had died. Petitioner must explain whether other patent applications were being prosecuted by Gastel on behalf of petitioner at the time of his death, and, if so, how those applications were handled upon Gastel's death. Simply put, petitioner must state when it learned of Gastel's death, and provide a showing of steps taken to promptly verify (a) whether all maintenance fees had been paid in this patent, and (b) that the maintenance fee due dates were docketed for payment in a reliable tracking system.

In summary, the showing of record is inadequate to establish unavoidable delay. Specifically, petitioner has not established that it acted with the level of care of a reasonably prudent person in the conduct of his or her most important business upon learning of Gastel's death to ensure that the subject patent was docketed for payment of the maintenance fee. Rather, than unavoidable delay, the showing of record is that petitioner failed to take adequate precautions to ensure that maintenance fees were timely paid. 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.[18]

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

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

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

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

[18] See note 4, supra.

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.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/14/2012

TO SPE OF : ART UNIT 1615

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/612,202 Patent No.: 6827946 B2

CofC mailroom date: 2/3/2012

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: _____

_____

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: Changes do not affect the scope of the patent and are therefore approved.

/Robert A. Wax/ — **SPE**

1615 — **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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PATENT DEPT - INTUITIVE SURGICAL OPERATIONS
1266 KIFER RD BLDG 101
SUNNYVALE CA 94086

MAILED
APR 07 2011
OFFICE OF PETITIONS

In re Application of :
Grace :
Application No. 10/013,170 :
Filed: June 7, 2002 :
Attorney Docket No. 155695-0243 :

DECISION ON PETITION
UNDER 37 CFR 1.183

This is a decision on the petition under 37 CFR 1.183 seeking waiver of 37 CFR §§ 1.67 and 1.175 where it requires that a supplemental declaration be executed by the named inventors in a broadening reissue application. [1]

The petition is granted.

BACKGROUND

On June 7, 2002, the present application was filed as an application for reissue of U.S. Patent No. 6,132,441, by inventor Kenneth Grace, who executed an original reissue declaration.

During the prosecution of the present application, the Office required a supplemental declaration directed to errors in the original patent which were corrected in the present application after the signing of the original reissue declaration.

According to the declaration supplied by Ms. Anne Killingsworth, employee of the assignee, together with the present petition, that sole inventor could not be located to sign the supplemental declaration after diligent effort to find him.

[1] Once an application has received a fully executed oath or declaration that has been placed on the files for examination, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603.

DECISION

35 U.S.C. 251, which is directed to reissue, does not address the signature requirements of a declaration in reissue. 37 CFR 1.172 requires that a reissue declaration be made (and signed) by the inventors, except as otherwise provided (§§ 1.42, 1.43, 1.47), where the scope of the claims of the original patent is being enlarged. 37 CFR 1.175(b)(1), requires that:

> "For any error corrected, which is not covered by the oath or declaration submitted under paragraph (a) of this section, applicant must submit a supplemental oath or declaration stating that every such error arose without any deceptive intention on the part of the applicant."

37 CFR 1.175(b)(1), taken in conjunction with 37 CFR 1.172, requires a supplemental declaration to be signed by all the inventors. This is because all oaths or declarations necessary to fulfill the rule requirements in a reissue application are taken together collectively as a single oath or declaration. Thus, each oath and/or declaration must bear the appropriate signature of all the inventors. *See In re Hayes*, 53 USPQ2d 1222 (Comm'r Pat. 1999).

37 CFR 1.183 permits, in an extraordinary situation, waiver of a rule which is not a requirement of the statute, where justice requires such waiver, and applicant has requested a waiver of the requirement that the 37 CFR 1.175(b)(1) supplemental declaration be signed by an inventor.

The instant petition is accompanied by an appropriate showing that the sole inventor could not be located after diligent effort. Accordingly, the supplemental declaration of March 8, 2011, signed by an authorized representative of the assignee will be accepted as though it was signed by the sole inventor as required by 37 CFR 1.175(b)(1) taken in conjunction with 37 CFR 1.172. *See* MPEP 602.02. See *In re Hayes, supra.*

CONCLUSION

The present petition to waive 37 CFR 1.172 is granted.

The application is being forwarded to Technology Center Art Unit 3731 for further prosecution.

Please direct any questions related to this decision 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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Patent No. 6,731,286 :
Issued: 05/04/2004 :
Application No. 10/013,567 : NOTICE
Filed: 12/11/2001 :
Attorney Docket No. 455610-2410 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 28, 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

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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ANDERSON GORECKI & MANARAS, LLP
33 NAGOG PARK
ACTON, MA 01720

MAILED

DEC 08 2010

OFFICE OF PETITIONS

In re Application of :
Abdulkadev Barbir, et al. :
Application No. 10/013,677 : ON PETITION
Filed: December 13, 2001 :
Attorney Docket No. 123-011 :

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.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 16, 2010 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on August 17, 2010. See MPEP 1214.06.

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.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the 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 2456 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.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,866	12/12/2001	Michael Hinnebusch	Hinne-P3-01	4714

28710 7590 06/06/2011

PETER K. TRZYNA, ESQ.
P O BOX 7131
CHICAGO, IL 60680

EXAMINER	
NELSON, FREDA ANN	

ART UNIT	PAPER NUMBER
3628	

MAIL DATE	DELIVERY MODE
06/06/2011	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

JUN - 6 2011

Peter K. Tryzna, Esq.
P.O. Box 7131
Chicago, IL 60680

In re application of
Michael Hinnebusch
Application No. 10/015,866
Filed: December 12, 2001
For: SYSTEM AND METHOD TO IMPROVE FITNESS TRAINING

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on February 20, 2002 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII. The extremely lengthy delay in treating this petition is sincerely regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Quality Assurance Specialist
Technology Center 3600
(571) 272-6611

SNM/snm: 6/3/11

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT LAW & VENTURE GROUP
2424 SE BRISTOL SUITE 300
NEWPORT BEACH CA 92660

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Gord Nelson	:	
Application No. 10/016,105	:	ON PETITION
Filed: October 30, 2001	:	
Attorney Docket No. Nelson.G-01	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 12, 2004.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the Notice of Non-Compliant Amendment, mailed September 30, 2003. This Office action set one (1) month period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above identified application became abandoned on October 31, 2003. A Notice of Abandonment was mailed on May 7, 2004.

Petitioner states that he did not receive the September 30, 2003 Notice of Non-Compliant Amendment until December 14, 2003.

MPEP 710.06 states that:

> The Office will grant a petition to restart the previously set period for reply to an Office action to run from the postmark date shown on the Office mailing envelope which contained the Office action when the following criteria are met:
>
> (A) the petition is filed within 2 weeks of the date of receipt of the Office action at the correspondence address;
>
> (B) the reply period was for payment of the issue fee, or the reply period set was 1 month or 30 days; and
>
> (C) the petition includes (1) evidence showing the date of receipt of the Office action at the correspondence address (e.g., copy of the Office action having the date of receipt of the Office action at the correspondence address stamped thereon, etc.), (2) a copy of the envelope which contained the Office action showing the postmark date, and (3) a statement setting forth the date of receipt of the Office action at the correspondence address and stating that the Office action was received in the postmarked envelope.

Here, petitioner has not met requirements (A) and (C) above. Petitioner did not file the instant petition within 2 weeks of the date of receipt of the Notice of Non-Compliant Amendment. Furthermore, petitioner did not include any evidence showing the date of receipt of the Notice.

While the showing of record is not sufficient to withdraw the holding of abandonment, petitioner is not precluded from obtaining relief by filing a petition pursuant to 37 CFR 1.137(b) on the basis of unintentional delay. A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

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

Cliff Congo
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

KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of :
William Ho Chang, et al. :
Application No. 10/016,223 : DECISION ON PETITION
Filed: November 2, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: FXT302 :

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 5, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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.

This pending nonprovisional application was filed on November 1, 2001, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/245,101, which was filed on November 1, 2000, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is

included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121 and 37 CFR 1.76(b)(5)) deleting the incorporation by reference statement, are required.

As authorized, the $1,410 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's Deposit Account No. 11-1540.

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

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)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

William Ho CHANG, et al. Date: October 5, 2010

Serial No. : 10/016,223 Group Art Unit 2445

Filed : November 1, 2001 Examiner Ajay M. BHATIA

For : WIRELESS DATA OUTPUT METHOD FOR RENDERING DIGITAL CONTENT ACCESSED FROM A MOBILE INFORMATION APPARATUS

Mail Stop 313(c)
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

FAX RECEIVED
OCT - 5 2010
OFFICE OF PETITIONS

PETITION UNDER 37 C.F.R. § 1.78(a)(6)

Applicant respectfully requests that the Patent Office accept the following unintentionally-delayed priority claim:

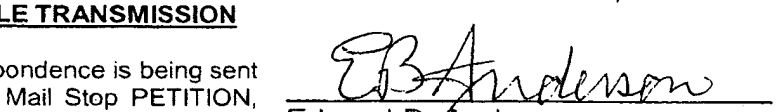
> This application claims the benefit of U.S. Provisional Application No. 60/245,101, filed November 1, 2000, the entire disclosure of which is hereby incorporated by reference herein for all purposes.

The entire delay between the date the above priority claim was due pursuant to 37 C.F.R. § 1.78(a)(5)(ii) and the above date was unintentional. In particular, a previous version of the above priority claim was included in the original declaration as filed. Thus, the priority claim was not recognized. An amendment adding the above priority claim to the specification as the first sentence after the title is included with this petition.

The Commissioner of Patents is authorized to charge the fee of $1,410.00 pursuant to 37 C.F.R. § 1.17(t) and any additional required fees associated with this

communication to Deposit Account 11-1540. If there are any questions regarding this matter, please telephone the undersigned.

Respectfully submitted,
KOLISCH HARTWELL, P.C.



Edward B. Anderson
Registration No.30,154
PTO Customer No. 23581
of Attorneys for Flexiworld, Inc..
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being sent by facsimile transmission to: Mail Stop PETITION, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on October 6, 2010.

Heidi Dutro

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Application of :
William Ho Chang, et al. :
Application No.: 10/016,223 : ON PETITION
Filed: November 1, 2001 :
Attorney Docket No.: FXT302 :

This is a decision on the petition, filed August 17, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 13, 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 2445 for further processing of the Request for Continued Examination (RCE) 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.*

UNITED STATES 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 6, 2010

TO : Director, Office of Data Management

FROM : Office of Petitions

SUBJECT : Withdrawal from Issue of **Application No. 10/016,223**

Applicant(s) : William Ho Chang, et al.
Application No. : 10/016,223
Filed : November 1, 2001

The above-identified application has been assigned Patent No. 7,814,209 and an issue date of October 12, 2010.

It is hereby directed that this application be withdrawn from issue at the request of the applicant. Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of October 12, 2010:

"All reference to Patent No. 7,814,209 to WILLIAM HO CHANG, ET AL. of WASHINGTON for WIRELESS DATA OUTPUT METHOD FOR RENDERING DIGITAL CONTENT ACCESSED FROM A MOBILE INFORMATION APPARATUS appearing in the Official Gazette of October 12, 2010 should be deleted since no patent was granted."

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison
Deneise Boyd
Mary Louise McAskill
Niomi Farmer
Mary E. Johnson (Cookie)
Dave Bender
Brad Harris
Kim Terrell
Lamont Fletcher

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

MAILED
DEC 15 2010
OFFICE OF PETITIONS

In re Application of :
William Ho.Chang, et al. :
Application No. 10/016,223 : DECISION ON PETITION
Filed: November 1, 2001 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No.: FXT302 :

This is a decision on the renewed petition, filed October 19, 2010, under 37 CFR 1.78(a)(6) 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 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 non-provisional 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) 272-3204. 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 2445 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.

Sherry D. Brinkley
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
10/016,223	11/01/2001	2445	1740	FXT302	96	6

CONFIRMATION NO. 3000

CORRECTED FILING RECEIPT

23581
KOLISCH HARTWELL, P.C.
200 PACIFIC BUILDING
520 SW YAMHILL STREET
PORTLAND, OR 97204

OC000000044783667

Date Mailed: 12/02/2010

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)

William Ho Chang, Vancouver, WA;
Christina Ying Liu, Vancouver, WA;

Power of Attorney: The patent practitioners associated with Customer Number 23581

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/245,101 11/01/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/19/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/016,223**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

WIRELESS DATA OUTPUT METHOD FOR RENDERING DIGITAL CONTENT ACCESSED FROM A MOBILE INFORMATION APPARATUS

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Goodwin Procter, LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

MAILED
NOV 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,123,876 :
Issue Date: October 17, 2006 :
Application No. 10/016,233 : ON PETITION
Filed: November 1, 2001 :
Patentees: James June-Ming Wang, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on October 25, 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.

If petitioner desires to receive future correspondence, which **may** be mailed, regarding maintenance fees for the above-identified patent, a "Fee Address Indication" form must be submitted (See USPTO Form No. PTO/SB/47).

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

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/016,416	BAMDAD ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL		CROSS REFERENCE(S)							
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	287.2	435	283.1	287.1					
INTERNATIONAL CLASSIFICATION		422	68.1						
C 12 M	1/34								
C 12 M	3/00								
C 12 M	1/00								
G 01 N	15/06								
G 01 N	33/00								

(Assistant Examiner) (Date)	/Frank W Lu/ (Primary Examiner) (Date)	Total Claims Allowed: 8	
(Legal Instruments Examiner) (Date)		O.G. Print Claim(s): 1	O.G. Print Fig.: None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☐ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
	6		36		66		96		126		156		186
	7		37		67		97		127		157		187
	8		38		68		98		128		158		188
	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
	11		41		71		101		131		161		191
	12		42		72		102		132		162		192
	13		43		73		103		133		163		193
	14		44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
1	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
2	20		50		80		110		140		170		200
3	21		51		81		111		141		171		201
4	22		52		82		112		142		172		202
5	23		53		83		113		143		173		203
6	24		54		84		114		144		174		204
7	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
8	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

Issue Classification	Application/Control No.	Applicant(s)/Patent under Reexamination	
	10/016,416	BAMDAD ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION

ORIGINAL		CROSS REFERENCE(S)							
CLASS	SUBCLASS	CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)						
435	287.2	435	283.1	287.1					
INTERNATIONAL CLASSIFICATION		422	68.1						
C 12 M	1/34								
C 12 M	3/00								
C 12 M	1/00								
G 01 N	15/06								
G 01 N	33/00								

(Assistant Examiner) (Date)

(Legal Instruments Examiner) (Date)

/Frank W Lu/ 3/28/2011

(Primary Examiner) (Date)

Total Claims Allowed: 8

O.G. Print Claim(s)	O.G. Print Fig.
1	None

☐ Claims renumbered in the same order as presented by applicant ☐ CPA ☒ T.D. ☐ R.1.47

Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
	1		31		61		91		121		151		181
	2		32		62		92		122		152		182
	3		33		63		93		123		153		183
	4		34		64		94		124		154		184
	5		35		65		95		125		155		185
	6		36		66		96		126		156		186
	7		37		67		97		127		157		187
	8		38		68		98		128		158		188
	9		39		69		99		129		159		189
	10		40		70		100		130		160		190
	11		41		71		101		131		161		191
	12		42		72		102		132		162		192
	13		43		73		103		133		163		193
	14		44		74		104		134		164		194
	15		45		75		105		135		165		195
	16		46		76		106		136		166		196
	17		47		77		107		137		167		197
1	18		48		78		108		138		168		198
	19		49		79		109		139		169		199
2	20		50		80		110		140		170		200
3	21		51		81		111		141		171		201
4	22		52		82		112		142		172		202
5	23		53		83		113		143		173		203
6	24		54		84		114		144		174		204
7	25		55		85		115		145		175		205
	26		56		86		116		146		176		206
8	27		57		87		117		147		177		207
	28		58		88		118		148		178		208
	29		59		89		119		149		179		209
	30		60		90		120		150		180		210

UNITED STATES 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-12

Paper No. 9

JAMES L. JACKSON
ANDREWS & KURTH-MAYOR, DAY, CALDWELL
& KEETON, L.L.P.
700 LOUISIANA, SUITE 1900
HOUSTON TX 77002

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of :
William D. Allen :
Application No. 10/016,519 : ON PETITION
Filed: 10/30/2001 :
For: HYBRID CNC CONTROL SYSTEM :

This is a decision in response to the petition under 37 CFR 1.137(b) filed on March 1, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on April 30, 2004, for failure to submit a timely response to the non-final Office action mailed on January 29, 2004, which set a three (3) month statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on August 4, 2004.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

Applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required

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

to conduct all future correspondence with this Office through the attorney or agent of record. See 37 CFR 1.33. If applicant no longer wishes to be represented by counsel, a revocation of power of attorney form (copy enclosed) should be filed.

The address on the petition is different than the correspondence address. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application will be referred to Technology Center Art Unit 2125 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

Encl: PTO/SB/81
PTO/SB/123

Cc: WILLIAM D. ALLEN
2505 LAUREL VALLEY LANE
ARLINGTON TX 76006

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

OCT 14 2010

OFFICE OF PETITIONS

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

In re Application of	:	
Nair et al.	:	DECISION ON PETITION TO
Application Number: 10/016793	:	WITHDRAW HOLDING OF
Filing Date: 10/26/2001	:	ABANDONMENT
Attorney Docket Number:	:	
2207/12116	:	

This is a decision on the petition filed on June 3, 2005, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

A Notice of Abandonment was mailed on May 16, 2005, stating that the application was abandoned for failure to response to the non-final Office action mailed on September 9, 2004.

Petitioners assert that a timely and proper response to the Office action was filed, with a three (3)-month extension of time.

A review of the record reveals that on September 9, 2004, a non-final Office action was mailed, setting a three (3)-month shortened statutory period for reply. On March 14, 2005 (certificate of mailing date March 9, 2005), an amendment in response to the Office action was filed, accompanied by payment of the fee for a three (3)-month extension of time. The extension of time fee has been charged to counsel's deposit account.

As such, the showing of record is that, in filing the papers including a certificate of mailing dated March 9, 2005, petitioner did file a timely and proper response to the Office action mailed on September 9, 2004.

Consequently, the showing of record is that a proper response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.
The holding of abandonment is **withdrawn**, and the Notice of Abandonment is **vacated**.

The application is being referred to Technology Center Art Unit 2838 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
OIW OCT-10

ROBERT J. DRISCOLL, J.D., PH.D.
PRESIDENT AND CHIEF EXECUTIVE OFFICER
1900 SOUTH NORFOLK STREET, SUITE 105
SAN MATEO CA 94403

MAILED
OCT 14 2010
OFFICE OF PETITIONS

In re Application of :
Wiles et al. :
Application Number: 10/016993 : ON PETITION
Filing Date: 12/13/2001 :
Attorney Docket Number: R-948 :
:

This is a decision on the petition filed on July 28, 2004, to withdraw the holding of abandonment.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

This application became abandoned on March 6, 2004, for failure to timely file a reply to the non-final Office action mailed on December 5, 2003, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed July 14, 2004.

In the present petition, petitioners request that the Office withdraw the holding of abandonment due to non-receipt of the non-final Office action mailed on December 5, 2003.

Petitioners state, via, the petition signed by registered patent practitioner Kelly L. Quast, that a thorough search of the file jacket and docket record was made, and that the Office action was not received. A copy of the docket report and file jacket is enclosed. Petitioners further aver that "in July 2004, Applicants' mailing address changed. Applicants believe that the

mailing address in connection with all applications filed by Deltagen, Inc., had been properly updated after their move. However, in some applications the address was not properly changed. As a result, other applications associated with Deltagen, Inc. may have outstanding Office actions that were not received."

A review of the record indicates:

1. On December 13, 2001, the application was filed, with 740 Bay Road, Redwood City, CA 94063 listed as the address on the transmittal letter.

2. On March 18, 2002, an executed declaration was filed, listing Deltagen, Inc., 740 Bay Road, Redwood City, CA 94063 as the address of the attorneys of record.

3. On December 5, 2003, the non-final Office action was mailed to: Deltagen, Inc., 740 Bay Road, Redwood City CA 94063.

4. On April 12, 2004, a Change of Correspondence Address was filed, stating the correspondence address should be changed to the address associated with Customer No. 26619 or Deltagen, Inc., 1031 Bing St., San Carlos CA 94070.

5. On June 17, 2004, an associate Power of Attorney and Change of Address Request was filed, stating the address should be changed to: **Deltagen, Inc., 1031 Bing Street, San Carlos, CA 94070**. (emphasis in original)

MPEP 711.03(c) states, in pertinent part:

> In Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of Delgar, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of Delgar is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

(emphasis added)

It is noted that in another application filed by the same applicants, No. 10/180,936, an Office action was mailed on November 12, 2003 to the address of 740 Bay Road, Redwood City, CA 94063, but that the Office action in Application No. 10/180,936 was returned as undeliverable because applicant had relocated to 1031 Bing St., San Carlos CA 94070, but failed to timely apprise the Office of the change of correspondence address. Moreover, it is noted that in Application No. 10/015,543, another application filed by the same applicants as the subject application, an Office action was mailed on November 7, 2003, to the 740 Bay Road, Redwood City, CA 94063 address, but was not received.

Accordingly, the showing of record is that: (a) petitioners have a history of not receiving Office actions, and (b) the Office action was not received because petitioners were no longer receiving mail at the address of record.

MPEP 601.03 states that where an attorney or agent of record (or applicant, if he or she is prosecuting the application *pro se*) changes his or her correspondence address, he or she is responsible for promptly notifying the U.S. Patent and Trademark Office of the new correspondence address (including ZIP Code). See 37 CFR 11.11.

Petitioner must verify that they were, in fact, receiving mail at the correspondence address listed in the Office action mailed on December 5, 2003 at the time that the Office action was mailed, and for a reasonable time thereafter.

Accordingly, as the showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time, 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. This time period is **not** extendable.[1] The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

In the alternative, petitioners may wish to file a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

---

[1] See 37 CFR 1.181(f).

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 concerning this matter may 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
www.uspto.gov

COOL PATENT, P.C.
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Application of :
Hayduk :
Application No.10/017,047 : DECISION ON PETITION
Filed: December 13, 2001 :
Attorney Docket No. P12401 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 1, 2005. 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 (RCE) 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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 2, 2005. A petition filed under 37 CFR 1.137(a) was dismissed on May 11, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Notice of Appeal and fee; (2) the petition fee of $1500.00; and (3) a proper statement of unintentional delay.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

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

This application is being referred to Technology Center AU 2195 for processing in the normal course of business.

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

WORKMAN NYDEGGER / FINISAR
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Patent No. 7065300 :
Issue Date: 06/20/2006 :
Application Number: 10/017358 :
Filing or 371(c) Date: 12/13/2001 :
Attorney Docket Number: 21153-05929 :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on November 9, 2010.

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.

DWood

Douglas Wood
Attorney
Office of Petitions

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10017495
Filing Date	14-Dec-2001
First Named Inventor	Cuie Zhao
Art Unit	2194
Examiner Name	LECHI TRUONG
Attorney Docket Number	BOR-160
Title	Name service object clustering

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 64107

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

10.40(c)(1)(iv)

10.40(c)(5)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 47604

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Scot S. Kokka/
Name	Scott S. Kokka
Registration Number	51893

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Decision Date : January 5, 2012

In re Application of :

Cuie Zhao

Application No : 10017495

Filed : 14-Dec-2001

Attorney Docket No : BOR-160

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed January 5, 2012

The request is **APPROVED**

The request was signed by Scott S. Kokka (registration no. 51893) on behalf of all attorneys/agents associated with Customer Number 64107 . All attorneys/agents associated with Customer Number 64107 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 47604 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

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

BATTELLE MEMORIAL INSTITUTE
505 KING AVENUE
COLUMBUS, OH 43201-2693

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Coffee et al.	:	
Application No. 10/018,160	:	DECISION ON PETITION
Filed: November 1, 2001	:	
Attorney Docket No. 13401	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 18, 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 March 3, 2011, as required by the Notice of Allowance and Fee(s) Due mailed December 3, 2010. Accordingly, the application became abandoned on March 4, 2011. A Notice of Abandonment was mailed March 18, 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 $755, (2) the petition fee of $810, 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) 272-6059.

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

A. Kelley-Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: NICOLE M. TEPE
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202,

UNITED STATES 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 21 2011

OFFICE OF PETITIONS

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

In re Application of :
Chuter :
Application No. 10/018,164 : ON PETITION
Filed: May 20, 2002 :
Attorney Dkt. No. C010-1001A-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 12, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a final Office action mailed January 13, 2009. The Office Action set a three (3) month shortened statutory period for reply. No extension of time was requested under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on April 14, 2009. A Notice of Abandonment was mailed on August 8, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuation application No. 12/945,679.

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

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DICKINSON WRIGHT PLLC
JAMES E. LEDBETTER, ESQ.
INTERNATIONAL SQUARE
1875 EYE STREET, NW., SUITE 1200
WASHINGTON DC 20006

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Patent No. 7,171,354	:	ON PETITION
Issue Date: 30 January, 2007	:	
Application No. 10/018,317	:	
Filed: 18 December, 2001	:	
Attorney Docket No. 009289-01226	:	

This is a decision on the petition filed 13 January, 2010, to waive the rules pursuant to 37 C.F.R. §1.183 and accept the correction of the assignee on the front page of the above-identified patent pursuant to 37 C.F.R. §1.323 and §3.81(a).

The requirements of the instant matter are set forth in in the Commentary at MPEP §307—Petitioner must provide not only the statement and showings, but also the proper fees, which requirement Petitioner has not fully satisfied with payment and/or authorization of charge.

The petition is **GRANTED**.

Petitioner requests issuance of a certificate of correction adding the name of "NEC Corporation."

Petitioner's original request of 31 August, 2009, was dismissed on 22 December, 2009, because Petitioner did not provide a copy of the assignment documents in question and the Office Abstract of the assignment at Reel/Frame 012554/0828 (12 February, 2002) indicated but a single Assignee in the name of Matsushita Electric Industrial Co., Ltd.

Petitioner's submission of a copy of the underlying document—Assignment—evidences a second Assignee identified therein as **NEC Corporation**.

Patent No. 7,171,354
Application No. 10/018,317

The regulations at 37 C.F.R. §3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. The regulations at 37 C.F.R. §3.81 (b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but prior to issuance of a patent. (See: the regulations The regulations at 37 C.F.R. §3.81(b)[1] and the guidance in the Commentary at MPEP §307.[2])

---

1 The regulations at 37 C.F.R. §3.81(b), effective June 25, 2004, provide:

> *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.

2 The guidance in the Commentary at MPEP §307 provides:

> **307 Issue to Assignee [R-3]**
>
> *35 U.S.C. §152. Issue of patent to assignee.*
> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided in this title.
>
> **>
> *37 C.F.R. §3.81. Issue of patent to assignee.*
> (a)*With payment of the issue fee*: An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in §3.11.
> (b)*After payment of the issue fee*: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11before 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.
> (c)*Partial assignees*. (1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.
> (2)If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees.<
>
> Normally, for a patent to issue to an assignee, a request for issuance of the application in the name* of the assignee* must be filed in the United States Patent and Trademark Office (Office) at a date not later than the day on which the issue fee is paid. **>Such a request must indicate that the assignment has been previously recorded in the Office. If the assignment has not been previously recorded in the Office, the request must state that the document has been filed for recordation as set forth in 37 C.F.R. §3.11. See 37 C.F.R. §3.81(a).
> If a request for issuance to an assignee pursuant to 37 C.F.R. §3.81(b) is submitted after the day on which the issue fee is paid, the request under 37 C.F.R. §3.81(b) must include a request for a certificate of correction under 37 C.F.R. §1.323 (accompanied by the fee set forth in 37 C.F.R. §1.20(a)) and the processing fee set forth in 37 C.F.R. §1.17(i). The request under 37 C.F.R. §3.81(b) must state that the assignment was submitted for recordation as set forth in 37 C.F.R. §3.11 before issuance of the patent. The Office will issue a certificate of correction to reflect that the patent issued to the assignee provided the requirements of 37 C.F.R. §3.81(b) and 37 C.F.R. §1.323 are complied with.<
> Only the first appearing name of an assignee will be printed on the patent where multiple names for the same party are identified on the **>Fee(s)< Transmittal form, PTOL-85B. Such multiple names may occur when both a legal name and an "also known as" or "doing business as" name is also included. This printing practice will not, however, affect the existing practice of recording assignments with the Office in the Assignment Division. The assignee entry on form PTOL-85B should still be completed to indicate the assignment data as recorded in the Office. For example, the assignment filed in the Office and, therefore, the PTOL-85B assignee entry might read "Smith Company doing business as (d.b.a.) Jones Company." The assignee entry on the printed patent will read "Smith Company."
> Irrespective of whether the assignee participates in the prosecution of the application, the patent issues to the assignee if so indicated on the **>Fee(s)< Transmittal form PTOL-85B. Unless an assignee's name and address are identified Transmittal form PTOL-the applicant. Assignment will be based solely on >Assignment information updated after a patent is reflective of the assignment subsequent to the issuance assignment information an assignment search on and by inspecting the documents.<

As noted above, Patent and Trademark Office assignment records disclose that an assignment to Matsushita Electric Industrial Co., Ltd. and **NEC Corporation** was recorded at Reel/Frame 012554/0828 on12 February, 2002. Thereafter the patent issued as indicated above on 30 January, 2007. (*See*, generally in this regard: MPEP §307.)

Petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application. The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect assignment as set forth above.

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.[3]

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.

Accordingly, because the request complies with the provisions of 37 C.F.R. 3.81(b), it is appropriate for a certificate of correction to be processed.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

A request for a certificate 37 C.F.R. §1.323 (see MPEP from incomplete or erroneous furnished >, or a missing PTOL-85B will not be under 37 C.F.R. §3.81(b) assignment was submitted in 37 C.F.R. 3.11 before request under 37 C.F.R. the Office of Petitions

(A)the *>processing< 1.17(*>i<);
(B)a request **>for the name of the assignee, corrected to state the name
(C)a statement that submitted for recordation 3.11before the issuance of the
(D)a **>request under 37 C.F.R. §1.323 accompanied in 37 C.F.R. §1.20(a).<

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

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).

Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

/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

SEP 13 2011

Lorna Tanner
Foley & Lardner LLP
975 Page mill Roa d
Palo Alto, CA 94304

Re: Patent Term Extension
Application for
U.S. Patent No. 6,642,210

WITHDRAWAL OF APPLICATION FOR PATENT TERM EXTENSION

This is in response to the election of U.S. Patent No. 6,403,567 filed May 3, 2011, for patent term extension for U.S. Patent No. 6,642,210 based on the regulatory review of (LEXISCAN® (regadenoson monohydrate)).

Because U.S. Patent No. 6,642,210 was NOT elected, the application is withdrawn.

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

By mail: Mail Stop Hatch-Waxman PTE
P.O. Box 1450
Alexandria, VA 22313-1450

Telephone inquiries related to this determination should be directed to the undersigned at (571) 272-7755. E-mail inquiries should be directed to mary.till@uspto.gov.

Mary C. Till
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

cc: Office of Regulatory Policy
Food and Drug Administration
10903 New Hampshire Ave., Bldg. 51, Rm. 6222
Silver Spring, MD 20993-0002

Attention: Beverly Friedman

RE: LEXISCAN® (regadenoson monohydrate)
Docket No.: FDA-2009-E-0047

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/03/12

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/018,446 Patent No.: 6642210

CofC mailroom date: 12/21/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

XX Approved All changes apply.

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

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

Comments: C of C is approved.

/S. A. Jiang/ 1623
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/03/12

TO SPE OF : ART UNIT 1623

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/018,446 Patent No.: 6642210

CofC mailroom date: 12/21/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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.

XX Approved **All** changes apply.

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

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

Comments: C of C is approved.

/S. A. Jiang/ 1623
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

In re Patent No. 6538341
Issue Date: March 25,2003
Application No. 10018603
Filed: December 17,2001
Attorney Docket No. 010489-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.

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)
6,538,341	2003-03-25	10018603	2001-12-17	03413.000200.

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Jonathan Berschadsky/	Date (YYYY-MM-DD)	2012-01-25
Name	Jonathan Berschadsky	Registration Number	46551

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6646094	2003-11-11	10/018,707	2001-12-17	2001-241

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Alex R. Sluzas/	Date (YYYY-MM-DD)	2012-03-07
Name	Alex R. Sluzas	Registration Number	28669

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only 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. 6646094
Issue Date: November 11,2003
Application No. 10018707
Filed: December 17,2001
Attorney Docket No. 241-01

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

This is a decision on the electronic petition, filed March 7,2012 ,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 7,2012 .
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

Paper No. 13

VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Patent of Scheffler :
Patent No. 6,847,410 :
Issue Date: January 25, 2005 :
Application No. 10/018,906 :
Filing Date: December 18, 2001 :
Attorney Docket No. WILAN-P00343US1 :

DECISION ON REQUEST FOR CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR CERTIFICATE OF CORRECTION," filed June 21, 2010, requesting correction of the patent term adjustment indicated in the patent. Patentee requests the patent term adjustment read "535" not "497" 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).

As stated in 37 C.F.R. § 1.322, with emphasis added,

> The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, *which mistake is clearly disclosed* in the records of the Office.

The alleged mistake is not clearly disclosed in the Office's records. Instead, the patent term adjustment indicated in the patent accurately reflects the patent term adjustment shown in the Office's PAIR system for this application, as well as the initial patent term adjustment mailed with the Notice of Allowance on September 14, 2004. Therefore, a certificate of correction is inappropriate.

Patentee is advised the procedures set forth in 37 C.F.R. § 1.705 are the proper procedures to be used when a party wishes to dispute the Office's calculation of patent term adjustment, rather than an alleged printing error.

The Office notes, even if the request had been filed under 37 C.F.R. § 1.705(d), the request could not be granted because the request does not include the required $200 fee and the request was not filed within the "two month" time limit set forth in 37 C.F.R. § 1.705(d).

In view of the prior discussion, the request for the certificate of correction is improper and will not be granted.

The patent file will now be forwarded to Files Repository for storage purposes.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

FEB 09 2012

OFFICE OF PETITIONS

In re Application of :
Maurizio Dalle Carbonare et al. : DECISION ON APPLICATION FOR
Application No. 10/019,387 : PATENT TERM ADJUSTMENT
Filed: March 26, 2002 :
Attorney Docket No.: 0259-0411P :

This is a decision on the REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b), filed January 13, 2012. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred thirty-two (332) days to six hundred eighty-eight (688) days.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED** to the extent indicated herein.

The determination of PTA at the time of the mailing of the Notice of Allowance is six hundred ninety-eight (698) days.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is six hundred ninety-eight (698) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On November 23, 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 three hundred thirty-two (332) days.

The Office initially determined a patent term adjustment based on an adjustment for PTO delay of eight hundred fifty-five (855) days, pursuant to 35 U.S.C. 154(b)(1)(A)(I) and 37 CFR §§1.702(a)(1).

Applicant disputes the period of adjustment for Office failure to mail a first action under 35 U.S.C. 132. Applicant asserts that for the present application, March 26, 2002 is the date Applicants filed all the necessary requirements under 35 U.S.C. § 371(c).

The record supports a conclusion that the patent issuing from the application is not subject to a terminal disclaimer.

A review of the application history confirms that the requirements of 35 U.S.C. 371 were fulfilled on March 26, 2002 and not on March 26, 2003 as indicated in the PTA Calculation and thus the number of days in the period of adjustment pursuant to § 1.703(a)(1) for the Office's mailing of a first action under 35 U.S.C. 132 on April 6, 2006, is 1046 days. This period is counted beginning on the day after the date that is fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371, March 26, 2002, and ending on the date of the mailing of the first action under 35 U.S.C. 132, April 6, 2006.

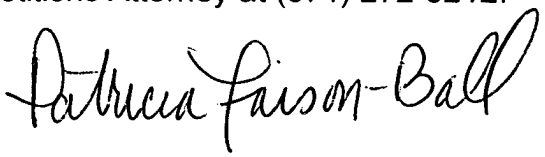
Given the reduction of 1046 + 175 days for PTO delay, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is six hundred ninety-eight (698) days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 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 is mailed to applicants approximately three weeks prior to issuance.

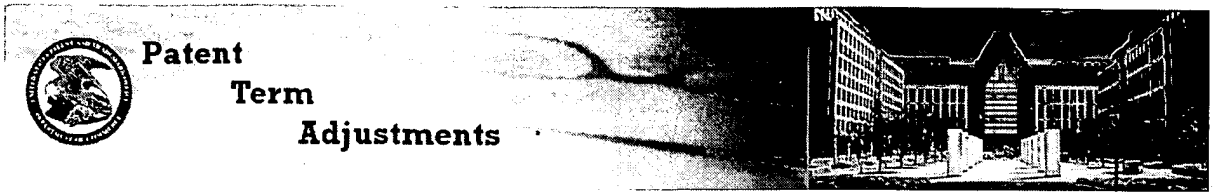
The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
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*: 10019387 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10019387

Application Filing Date	03/26/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	855
A Delays	855	PTO Manual Adjustment	366
B Delays	0	Applicant Delay (APPL)	523
C Delays	0	Total PTA (days)	698

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
172	02/06/2012		P028	Adjustment of PTA Calculation by PTO	1046	0	
171	02/06/2012		P028	Adjustment of PTA Calculation by PTO		680	0
153	11/23/2011	06/07/2011	MN/=.	Mail Notice of Allowance			126
152	11/18/2011		OAR	Office Action Review			0
151	11/18/2011		OAR	Office Action Review			0
150	11/18/2011		OAR	Office Action Review			0
149	11/18/2011		OAR	Office Action Review			0
148	11/18/2011		IREV	Issue Revision Completed			0
147	11/18/2011		N/=.	Notice of Allowance Data Verification Completed			0
145	11/07/2011		OAR	Office Action Review			0
144	11/07/2011		OAR	Office Action Review			0
143	11/07/2011		OAR	Office Action Review			0
142	11/07/2011		OAR	Office Action Review			0
141	11/07/2011		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
140	11/07/2011		DVER	Document Verification			0
138	11/02/2011		EX.R	Reasons for Allowance			0
137	11/02/2011		EX.A	Examiner's Amendment Communication			0
136	11/02/2011		CNTA	Allowability Notice			0
139	10/20/2011		EXIE	Interview Summary - Examiner Initiated			0
131	09/01/2011		FWDX	Date Forwarded to Examiner			0
129	08/24/2011		APBR	Appeal Brief Review Complete			0
130	08/08/2011		AP.B	Appeal Brief Filed			0
128	08/03/2011		FWDX	Date Forwarded to Examiner			0
127	07/27/2011		AP/A	Amendment/Argument after Notice of Appeal			0
116	06/08/2011		EML_NTR	Email Notification			0
115	06/08/2011		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
126	06/07/2011	03/08/2011	N/AP	Notice of Appeal Filed		91	110
125	06/07/2011		XT/G	Request for Extension of Time - Granted			0
118	06/02/2011		LET.	Miscellaneous Incoming Letter			0
117	06/02/2011		LET.	Miscellaneous Incoming Letter			0
114	06/02/2011		OAR	Office Action Review			0
113	06/02/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
112	12/08/2010		ELC_RVW	Electronic Review			0
111	12/08/2010		EML_NTF	Email Notification			0
110	12/08/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
109	12/03/2010		CTFR	Final Rejection			0
107	09/29/2010		FWDX	Date Forwarded to Examiner			0
108	09/24/2010		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
106	09/24/2010	06/26/2010	A...	Response after Non-Final Action		90	101
105	09/24/2010		XT/G	Request for Extension of Time - Granted			0
104	04/12/2010		LET.	Miscellaneous Incoming Letter			0
103	03/26/2010		ELC_RVW	Electronic Review			0
102	03/26/2010		EML_NTF	Email Notification			0
101	03/26/2010		MCTNF	Mail Non-Final Rejection			0
100	03/24/2010		CTNF	Non-Final Rejection			0
99	02/02/2010		EML_NTR	Email Notification			0
98	02/02/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
97	01/07/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
94	12/02/2009		FWDX	Date Forwarded to Examiner			0
91	12/02/2009		ABN9	Disposal for a RCE / CPA / R129			0
95	11/27/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
93	11/27/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
92	11/27/2009	08/27/2009	RCEX	Request for Continued Examination (RCE)		92	86
90	11/27/2009		XT/G	Request for Extension of Time - Granted			0
89	11/27/2009		BRCE	Workflow - Request for RCE - Begin			0

88	05/27/2009		ELC_RVW	Electronic Review			0
87	05/27/2009		EML_NTF	Email Notification			0
86	05/27/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
85	05/22/2009		CTFR	Final Rejection			0
81	03/11/2009		FWDX	Date Forwarded to Examiner			0
79	03/11/2009		EML_NTR	Email Notification			0
78	03/11/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
84	03/09/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
83	03/09/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
80	03/09/2009	02/03/2009	SA..	Supplemental Response		34	73
77	02/25/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
74	02/12/2009		FWDX	Date Forwarded to Examiner			0
75	02/03/2009		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
73	02/03/2009	12/04/2008	A...	Response after Non-Final Action		61	69
72	02/03/2009		XT/G	Request for Extension of Time - Granted			0
71	09/04/2008		ELC_RVW	Electronic Review			0
70	09/04/2008		EML_NTF	Email Notification			0
69	09/04/2008		MCTNF	Mail Non-Final Rejection			0
68	08/30/2008		CTNF	Non-Final Rejection			0
64	06/14/2008		FWDX	Date Forwarded to Examiner			0
62	06/14/2008		FWDX	Date Forwarded to Examiner			0
60	06/14/2008		ABN9	Disposal for a RCE / CPA / R129			0
63	06/10/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
61	06/10/2008	03/12/2008	RCEX	Request for Continued Examination (RCE)		90	45
59	06/10/2008		XT/G	Request for Extension of Time - Granted			0
58	06/10/2008		BRCE	Workflow - Request for RCE - Begin			0
57	05/13/2008		EML_NTR	Email Notification			0
56	05/13/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
55	05/09/2008		CTAV	Advisory Action (PTOL-303)			0
54	04/19/2008		FWDX	Date Forwarded to Examiner			0
51	04/17/2008		EML_NTR	Email Notification			0
50	04/17/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
53	04/14/2008		A.NE	Amendment after Final Rejection			0
52	04/14/2008		XT/G	Request for Extension of Time - Granted			0
49	03/20/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
48	01/08/2008		DOCK	Case Docketed to Examiner in GAU			0
47	12/13/2007		ELC_RVW	Electronic Review			0
46	12/12/2007		EML_NTF	Email Notification			0
45	12/12/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
44	12/07/2007		CTFR	Final Rejection			0
42	10/03/2007		FWDX	Date Forwarded to Examiner			0
43	10/01/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
41	10/01/2007	08/31/2007	A...	Response after Non-Final Action		31	35
40	10/01/2007		XT/G	Request for Extension of Time - Granted			0
39	06/02/2007		ELC_RVW	Electronic Review			0
38	05/31/2007		EML_NTF	Email Notification			0
35	05/31/2007	12/07/2006	MCTNF	Mail Non-Final Rejection	175		26
34	05/25/2007		CTNF	Non-Final Rejection			0
32	09/20/2006		DOCK	Case Docketed to Examiner in GAU			0
29	08/10/2006		FWDX	Date Forwarded to Examiner			0
27	08/10/2006		FWDX	Date Forwarded to Examiner			0
33	08/09/2006		IDSC	Information Disclosure Statement considered			0
30.7	08/09/2006	08/07/2006	M844	Information Disclosure Statement (IDS) Filed		2	26
30	08/09/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
28	08/09/2006		SA..	Supplemental Response			0
26	08/07/2006	07/06/2006	A...	Response after Non-Final Action		32	24
25	08/07/2006		XT/G	Request for Extension of Time - Granted			0
24	04/06/2006	05/26/2004	MCTNF	Mail Non-Final Rejection	680		13
23	04/03/2006		CTNF	Non-Final Rejection			0
22	01/10/2006		DOCK	Case Docketed to Examiner in GAU			0
21	10/12/2005		LET.	Miscellaneous Incoming Letter			0
20	03/28/2005		LET.	Miscellaneous Incoming Letter			0
19	06/16/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
15	06/16/2004		DOCK	Case Docketed to Examiner in GAU			0
18	05/13/2004		LET.	Miscellaneous Incoming Letter			0
14	01/08/2004		L194	Cleared by OIPE CSR			0
12	12/11/2003		OIPE	Application Dispatched from OIPE			0
11	12/11/2003		M903	Notice of DO/EO Acceptance Mailed			0
6	11/07/2003		MPREV	Mail-Petition to Revive Application - Granted			0
5	08/07/2003		PET.	Petition Entered			0
17	05/06/2003		C602	Oath or Declaration Filed (Including Supplemental)			0
13	03/26/2003		371COMP	371 Completion Date			0
10	03/26/2003		ADDFLFEE	Additional Application Filing Fees			0
9	03/26/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	03/26/2003		DRAWING	Drawing Preliminary Amendment			0
0.5	06/29/2000		NEFILE	International Filing date			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/20/10

TO SPE OF : ART UNIT 1644

SUBJECT : Request for Certificate of Correction for Appl. No.: 10019501 Patent No.: 7655227

CofC mailroom date:
12/15/10

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

[redacted]

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

/Ram R. Shukla/ SPE AU1644

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

THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

MAILED
JUL 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,371,579 :
Issue Date: May 13, 2008 :
Application No. 10/019,655 : ON PETITION
Filed: August 6, 2002 :
Attorney Docket No. 55859-024 :

This is a decision on the request filed July 2, 2010, which will be treated as a petition under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is DISMISSED.

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(h) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by the required fee of $130, request for certificate of correction and fee of $100. Petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

Petitioner alleges the error to be corrected was made by the Patent and Trademark Office. Assignment data printed on the patent is based solely on the information supplied on The Fee(s) Transmittal Form (PTOL-85B). The assignment data on the patent was the same as indicated on the Fee Transmittal Form provided by applicant so the file record shows no error on the part of the Office.

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 Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: William E. Beaumont
112 S. West Street
N. Fairfax Street
Suite 305
Alexandria, VA 22314

Best Available Copy

571 270 9892

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/9/2012

TO SPE OF : ART UNIT 1714

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/019754 Patent No.: 7041713 B2

CofC mailroom date: 6/4/2008

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: _____

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: _____

Michael Kornakov MK
SPE

1714
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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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Foley & Lardner LLP
Suite 500
3000 K Street NW
Washington DC 20007

MAILED
NOV 03 2010
OFFICE OF PETITIONS

In re Patent No. 7,521,212	:
Samain et al.	: DECISION UPON REMAND AND
Issue Date: April 21, 2009	: RECONSIDERATION OF
Application No. 10/019954	: PATENT TERM ADJUSTMENT
Filed: May 24, 2002	: AND NOTICE OF INTENT
Attorney Docket No. 065691-0267	: TO ISSUE CERTIFICATE OF
Title: Methods for Producing	: CORRECTION
Oligopolysaccharides	:

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).

A telephone call was made to counsel for patent owner to confirm the determination of 835 days.

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 EIGHT HUNDRED AND THIRTY-FIVE (835) 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 EIGHT HUNDRED AND THIRTY-FIVE (835) 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
Copy of adjusted PTA calculation

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,212

DATED : **April 21, 2009** **DRAFT**

INVENTOR(S) : Samain 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 264 days

Delete the phrase "by 264 days" and insert – by 835 days--

Day : Wednesday

PALM INTRANET

Date: 11/3/2010
Time: 12:05:22

PTA Calculations for Application: 10/019954			
Application Filing Date:	05/24/2002	PTO Delay (PTO):	645
Issue Date of Patent:	04/21/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	378
Post-Issue Petitions:	0	Total PTA (days):	835
PTO Delay Adjustment:	568		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
97	11/03/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	571		
88.5	04/01/2009	PTA 36 MONTHS	210		
88	04/21/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
87	03/23/2009	EXPORT TO FINAL DATA CAPTURE			
86	03/20/2009	DISPATCH TO FDC			
85	03/16/2009	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
84	03/16/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
84	03/16/2009	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE			
83	03/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		3	
83	03/16/2009	ADJUSTMENT OF PTA CALCULATION BY PTO			
82	01/28/2009	PETITION ENTERED			
81	02/02/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
80	01/28/2009	ISSUE FEE PAYMENT VERIFIED			
79	01/28/2009	ISSUE FEE PAYMENT RECEIVED			
78	12/01/2008	FINISHED INITIAL DATA CAPTURE			
77	11/14/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
76	11/04/2008	EXPORT TO INITIAL DATA CAPTURE			
74	10/30/2008	MAIL NOTICE OF ALLOWANCE			
73	10/28/2008	ISSUE REVISION COMPLETED			
72	10/28/2008	DOCUMENT VERIFICATION			

71	10/14/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	10/14/2008	CASE DOCKETED TO EXAMINER IN GAU			
69	10/14/2008	EXAMINER'S AMENDMENT COMMUNICATION			
68	10/14/2008	NOTICE OF ALLOWABILITY			
67	08/28/2008	MISCELLANEOUS INCOMING LETTER			
66	08/14/2008	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
65	07/11/2008	MISCELLANEOUS INCOMING LETTER			
64	07/11/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
63	07/08/2008	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
62	07/08/2008	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
61	07/28/2008	DATE FORWARDED TO EXAMINER			
60	07/08/2008	RESPONSE AFTER NON-FINAL ACTION		90	58
59	07/08/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
58	01/09/2008	MAIL NON-FINAL REJECTION			
57	01/07/2008	NON-FINAL REJECTION			
56	10/25/2007	DATE FORWARDED TO EXAMINER			
55	10/18/2007	RESPONSE AFTER NON-FINAL ACTION		61	53
54	10/18/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
53	05/18/2007	MAIL NON-FINAL REJECTION			
50	05/14/2007	NON-FINAL REJECTION			
49	03/12/2007	DATE FORWARDED TO EXAMINER			
48	02/28/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
47	03/12/2007	DATE FORWARDED TO EXAMINER			
46	02/28/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		92	37
45	03/12/2007	DISPOSAL FOR A RCE / CPA / R129			
44	02/28/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
43	02/28/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
42	01/31/2007	MAIL ADVISORY ACTION (PTOL - 303)			
41	01/29/2007	ADVISORY ACTION (PTOL-303)			
40	01/16/2007	DATE FORWARDED TO EXAMINER			
39	12/28/2006	AMENDMENT AFTER FINAL REJECTION			
38	12/28/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			

37	08/28/2006	MAIL FINAL REJECTION (PTOL - 326)			
36	08/21/2006	FINAL REJECTION			
35	06/05/2006	DATE FORWARDED TO EXAMINER			
34	05/30/2006	RESPONSE AFTER NON-FINAL ACTION		62	32
33	05/30/2006	REQUEST FOR EXTENSION OF TIME - GRANTED			
32	12/29/2005	MAIL NON-FINAL REJECTION			
31	01/05/2006	NON-FINAL REJECTION			
28	10/13/2005	DATE FORWARDED TO EXAMINER			
27	10/05/2005	RESPONSE AFTER NON-FINAL ACTION		61	25
26	10/05/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
25	05/05/2005	MAIL NON-FINAL REJECTION			
24	05/03/2005	NON-FINAL REJECTION			
23	02/23/2005	DATE FORWARDED TO EXAMINER			
22	01/13/2005	RESPONSE TO ELECTION / RESTRICTION FILED		12	18
21	01/13/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	01/13/2005	WORKFLOW INCOMING AMENDMENT IFW			
18	10/01/2004	MAIL RESTRICTION REQUIREMENT	435		-1
17	09/30/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
16	03/20/2004	CASE DOCKETED TO EXAMINER IN GAU			
15	02/12/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	05/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/24/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/03/2003	CASE DOCKETED TO EXAMINER IN GAU			
12	09/10/2002	APPLICATION DISPATCHED FROM OIPE			
11	09/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
10	09/04/2002	NOTICE OF DO/EO ACCEPTANCE MAILED			
9	05/24/2002	ADDITIONAL APPLICATION FILING FEES			
8	05/24/2002	INFORMATION DISCLOSURE STATEMENTS			
7	05/24/2002	PRELIMINARY AMENDMENTS			
6	05/24/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	05/24/2002	DRAWING PRELIMINARY AMENDMENT			
4	05/24/2002	TRANSLATION OF THE INTERNATIONAL APPLICATION INTO ENGLISH			
3	05/24/2002	TRANSLATION OF THE INTERNATIONAL			

APPLICATION INTO ENGLISH

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

Back to OASIS | Home page

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)
7,088,968	2006-08-08	10/020,423	2001-12-12	884.644.US1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required 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)	2011-08-10
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. 7088968
Issue Date: August 8,2006
Application No. 10020423
Filed: December 12,2001
Attorney Docket No. 884.644.US1

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

This is a decision on the electronic petition, filed August 10,2011 ,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 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)
6673120	2004-01-06	10020681	2001-12-12	10227-003US1

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

SMALL ENTITY

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

LOSS 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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Tina Williams McKeon/	Date (YYYY-MM-DD)	2012-03-09
Name	Tina Williams McKeon	Registration Number	43791

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6673120
Issue Date: January 6,2004
Application No. 10020681
Filed: December 12,2001
Attorney Docket No. P22,655-C US2

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

This is a decision on the electronic petition, filed March 13,2012 ,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 13,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6626840	2003-09-30	10020686	2001-10-29	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kathleen D. Rigaut, Ph.D., J.D./	Date (YYYY-MM-DD)	2011-10-27
Name	Kathleen D. Rigaut, Ph.D., J.D.	Registration Number	43047

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

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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. 6626840
Issue Date: September 30,2003
Application No. 10020686
Filed: October 29,2001
Attorney Docket No. 00-0086 (958-5 DIV)

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

This is a decision on the electronic petition, filed October 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 October 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
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P.O. Box 1450
Alexandria, VA 22313-1450
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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

MAILED

AUG 09 2010

OFFICE OF PETITIONS

In re Patent No. 6,925,483 : DECISION GRANTING PETITION
Issue Date: 08/02/2005 : UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/021364 : REQUEST FOR CERTIFICATE OF
Filing or 371(c) Date: 12/12/2001 : CORRECTION
Attorney Docket No. 112025-0073C2 :

This is a decision on the "Petition to Accept Priority Claim Under 37 C.F.R. § 1.78(a)(3) and Petition to Issue Certificate of Correction Under MPEP 1481.03(II)(B)(c)," filed April 6, 2010, seeking to add a claim for benefit under 35 U.S.C. § 120 to nonprovisional Application No. 09/104,558, filed June 25, 1998, 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 December 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.

Receipt of the $1,410 petition fee is hereby acknowledged. The certificate of correction fee, $100, will be charged to petitioner's Deposit Account No. 03-1237 as authorized in the Transmittal Letter filed with the present petition.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232.

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).

Christopher Bottorff
Supervisor
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
10/021,364	12/12/2001	2144	2154	112025-0073C2	21	8

CONFIRMATION NO. 9644

24267
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

CORRECTED FILING RECEIPT

Date Mailed: 08/09/2010

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)

Frederick Eldin Niemi, Cary, NC;

Power of Attorney:
Albert Johnston--29548

Domestic Priority data as claimed by applicant

This application is a CON of 09/660,689 09/13/2000 PAT 6,381,630
which is a CON of 09/104,558 06/25/1998 PAT 6,144,987

Foreign Applications

If Required, Foreign Filing License Granted: 01/04/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/021,364**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

SYSTEM FOR CHARACTERIZING INFORMATION FROM AN INFORMATION PRODUCER

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).

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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MURABITO, HAO & BARNES, LLP
TWO NORTH MARKET STREET, THIRD FLOOR
SAN JOSE CA 95113

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Donaldson et al.	:	
Application No. 10/021,494	:	DECISION ON PETITION
Filed: October 30, 2001	:	
Attorney Docket No. PALM-3674	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit Corrected Drawings on or before October 9, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 9, 2009. Accordingly, the date of abandonment of this application is October 10, 2009. A Notice of Abandonment was mailed October 22, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) Corrected Drawings, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

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

This application is being referred to Publishing Division for processing into a patent and review of the Corrected Drawings submitted with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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EUGENE ROUSSEL AND BIOTHER CORPORATION AND
GENEPRINT CORPORATION
8027 OAKINGTON DRIVE
SUITE 100
HOUSTON TX 77071-2020

MAILED

SEP 02 2010

OFFICE OF PETITIONS

In re Application of :
MARIE-CLAUDE GINGRAS, et al. :
Application No. 10/021,509 : DECISION ON PETITION
Filed: December 7, 2001 :
:

This is a decision on the petition filed January 6, 2009, that is being treated under the provisions of 37 CFR 1.59(b), to expunge information from the above identified application.

The petition to is **DISMISSED**.

Any request for reconsideration of this decision must include a cover letter entitled "Renewed Petition under 37 CFR 1.59(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

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 fee required is $200. The petition in the above-identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

The grant of a petition under 37 CFR 1.59 (b) to expunge information submitted in an application will be governed by the factors listed in Manual of Patent Examining Procedure (MPEP) §724.05. Petitioner may wish to consult this portion of MPEP in filing a renewed petition.

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
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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GENEPRINT CORPORATION
8027 OAKINGTON DRIVE
SUITE 100
HOUSTON TX 77071-2020

MAILED
SEP 02 2010
OFFICE OF PETITIONS

In re Application of :
MARIE-CLAUDE GINGRAS, et al. :
Application No. 10/021,509 : DECISION ON PETITION
Filed: December 7, 2001 :
:

This is a decision on the petition, filed January 5, 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 respond to the Office action of March 9, 2009, which set a one (1) month shortened statutory period for reply. Accordingly, a reply was due on or before April 9, 2009. A Notice of abandonment was mailed December 31, 2009.

Petitioner contends that the Notice of Abandonment should be withdrawn as a timely reply was filed on April 2, 2009.

The file record indicates a response to have been filed on April 2, 2009. In view thereof, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. The application is hereby restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4914.

This application is being referred to Technology Center AU 1644 for appropriate action in the normal course of business on the reply received April 2, 2009.

Rajnesh Krishnamurthy

Rajnesh Krishnamurthy
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)
7082416	2006-07-25	10/021,620	2001-12-11	Anderson-39299

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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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	/Donald R. Boys/	Date (YYYY-MM-DD)	2010-12-20
Name	Donald R. Boys	Registration Number	35074

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7082416
Issue Date: July 25,2006
Application No. 10021620
Filed: December 11,2001
Attorney Docket No. ANDERSON-39299

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

This is a decision on the electronic petition, filed December 20,2010 ,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 20,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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DEC 14 2010
OFFICE OF PETITIONS

In re Application of	:	
Schultz et al.	:	DECISION ON REQUEST
Application No. 10/022138	:	FOR RECONSIDERATION OF
Filing or 371(c) Date: 12/13/2001	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
ORT-1548	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE," filed November 2, 2010. Applicants submit that the correct patent term adjustment to date is 253 days, not 348 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction based upon an assertion that the Office erred in calculating an adjustment of 95 days.

The Application for Patent Term Adjustment under 37 CFR 1.705(b), is **GRANTED**.

BACKGROUND

The application was filed on December 13, 2001. On August 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 348 days.

On November 2, 2010, applicants timely submitted the present request for reconsideration of patent term adjustment[1]. Applicants assert that the Office erred in calculating an adjustment of 95 days pursuant to 37 CFR 1.702(a)(2), in connection with the mailing of a non-final Office action on May 4, 2006, four (4) months and 95 days after the filing of the non-compliant Appeal Brief. Applicant notes that the non-final Office action was timely filed within four (4) months of the filing of a compliant Appeal Brief, filed January 30, 2006.

OPINION

Applicants' arguments have been carefully considered. A review of Office records confirms that applicants filed an appeal Brief on September 29, 2005. The Appeal Brief was non-compliant.

[1] Office records show that the Issue Fee payment was received in the Office on November 2, 2010.

Applicants were so notified in Notice of Non-Compliant Appeal Brief, mailed January 3, 2006. Applicants thereafter filed a compliant Appeal Brief on January 30, 2006. In response, the Office mailed a non-final Office action on May 4, 2006, within four (4) months of the filing of the compliant Appeal Brief. As such, the adjustment of 95 days pursuant to 37 CFR 1.702(a)(2) is in error and has been removed.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is two hundred fifty-three (253) days (558 days Office adjustments – 305 days Applicant delay), subject to any terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10022138 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10022138

Application Filing Date:12/13/2001	OverLapping Days Between (A and B) or (A and C) 0
Issue Date of Patent:	Non-Overlapping USPTO Delays: 653
A Delays:149	PTO Manual Adjustment -95
B Delays:0	Applicant Delay (APPL) 305
C Delays:504	Total PTA (days) 253

* - 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	12/12/2010		PO2B	Adjustment of PTA Calculation by PTO		95	0
126	08/02/2010		MN/=	Mail Notice of Allowance			0
125	07/29/2010		IREV	Issue Revision Completed			0
124	07/29/2010		N/=	Notice of Allowance Data Verification Completed			0
123	07/29/2010		DOCK	Case Docketed to Examiner in GAU			0
122	07/29/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
121	07/29/2010		DVER	Document Verification			0
120	07/29/2010		CNTA	Notice of Allowability			0
115	05/03/2010		ELC_RVW	Electronic Review			0
114	05/03/2010		EML_NTF	Email Notification			0
113	05/03/2010	12/16/2008	MAPDR	Mail BPAI Decision on Appeal - Reversed	239		81
112	04/29/2010		APDR	BPAI Decision - Examiner Reversed			0
105	09/16/2009		WCRD	Withdraw of return of appeal			0
111	09/09/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
110	09/08/2009		APAS	Assignment of Appeal Number			0
109	08/31/2009		MRBNE	Mail Reply Brief Noted by Examiner			0
108	08/28/2009		RBNE	Reply Brief Noted by Examiner			0
107	08/28/2009		FWDX	Date Forwarded to Examiner			0
106	08/24/2009		APRB	Reply Brief Filed			0
95	08/14/2009		MM327	Mail Miscellaneous Communication to Applicant			0
94	08/13/2009		MI327	Miscellaneous Communication to Applicant - No Action Count			0
93	07/27/2009		TCRD	Return of Undocketed appeal to the TC			0
92	07/27/2009		PACC	Exam. Ans. Review Complete			0
90	06/22/2009		APEA	Examiner's Answer to Appeal Brief			0
86	04/06/2009		APBR	Appeal Brief Review Complete			0
85	04/06/2009		FWDX	Date Forwarded to Examiner			0
84	03/16/2009		AP.B	Appeal Brief Filed			0
83	03/16/2009		XT/G	Request for Extension of Time - Granted			0
82	12/16/2008		FEE_	Fee Payment Recorded (fees filed separately e.g. not with original papers, etc).			0
81	12/16/2008	11/21/2008	N/AP	Notice of Appeal Filed		25	79
80	12/16/2008		XT/G	Request for Extension of Time - Granted			0
79	08/21/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
78	08/18/2008		CTFR	Final Rejection			0
75	06/11/2008		FWDX	Date Forwarded to Examiner			0
74	04/23/2008		A...	Response after Non-Final Action			0
77	03/04/2008		IDSC	Information Disclosure Statement considered			0
73	03/04/2008		MI44	Information Disclosure Statement (IDS) Filed			0
72	03/04/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
71	01/23/2008		MCTNF	Mail Non-Final Rejection			0
70	01/22/2008		CTNF	Non-Final Rejection			0
69	01/08/2008		DOCK	Case Docketed to Examiner in GAU			0
68	10/31/2007		FWDX	Date Forwarded to Examiner			0
66	10/31/2007		FWDX	Date Forwarded to Examiner			0
64	10/31/2007		ABN9	Disposal for a RCE / CPA / R129			0
67	10/16/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
63	10/16/2007		XT/G	Request for Extension of Time - Granted			0
62	10/16/2007		BRCE	Workflow - Request for RCE - Begin			0
61	07/16/2007		N/AP	Notice of Appeal Filed			0
60	04/16/2007	04/05/2007	MCTFR	Mail Final Rejection (PTOL - 326)	11		57
59	02/13/2007		CTFR	Final Rejection			0
58	12/14/2006		FWDX	Date Forwarded to Examiner			0
57	12/05/2006	11/02/2006	A...	Response after Non-Final Action		33	54
56	11/07/2006		MINA	Mail Notice of Informal or Non-Responsive Amendment			0
55	11/07/2006		FWDX	Date Forwarded to Examiner			0
54.1	11/02/2006		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
54	11/02/2006	08/04/2006	A...	Response after Non-Final Action		90	51
53	11/02/2006		XT/G	Request for Extension of Time - Granted			0
52	06/12/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
51	05/04/2006	01/29/2006	MCTNF	Mail Non-Final Rejection	95		45
50	05/01/2006		CTNF	Non-Final Rejection			0
49	02/08/2006		FWDX	Date Forwarded to Examiner			0
48	01/30/2006		AP.B	Appeal Brief Filed			0
47	01/03/2006		APBD	Notice -- Defective Appeal Brief			0
46	10/12/2005		FWDX	Date Forwarded to Examiner			0
45.1	09/29/2005		APBI	Defective / Incomplete Appeal Brief Filed			0
45	09/29/2005		AP.B	Appeal Brief Filed			0
44	09/13/2005		MCTAV	Mail Advisory Action (PTOL - 303)			0
43	09/12/2005		CTAV	Advisory Action (PTOL-303)			0
42	08/01/2005		FWDX	Date Forwarded to Examiner			0
41	07/27/2005		AP/A	Amendment/Argument after Notice of Appeal			0
40	07/27/2005	06/15/2005	N/AP	Notice of Appeal Filed		42	38
39	07/27/2005		XT/G	Request for Extension of Time - Granted			0
38	03/15/2005		MCTFR	Mail Final Rejection (PTOL - 326)			0
37	03/14/2005		CTFR	Final Rejection			0
36	01/10/2005		FWDX	Date Forwarded to Examiner			0
35	12/20/2004	10/01/2004	A...	Response after Non-Final Action		80	30
34	12/20/2004		XT/G	Request for Extension of Time - Granted			0
33	12/20/2004		WAMD	Workflow incoming amendment IFW			0
32	10/22/2004		MINA	Mail Notice of Informal or Non-Responsive Amendment			0
31	10/21/2004		FWDX	Date Forwarded to Examiner			0
30.1	10/01/2004		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
30	10/01/2004	09/29/2004	A...	Response after Non-Final Action		2	28
29	10/01/2004		WAMD	Workflow incoming amendment IFW			0
27	06/27/2004		CTNF	Non-Final Rejection			0
26	03/30/2004		FWDX	Date Forwarded to Examiner			0
25	03/24/2004		AP.B	Appeal Brief Filed			0
24	02/18/2004		MCTAV	Mail Advisory Action (PTOL - 303)			0
23	02/17/2004		CTAV	Advisory Action (PTOL-303)			0
22	02/05/2004		FWDX	Date Forwarded to Examiner			0
21	01/22/2004		AP/A	Amendment/Argument after Notice of Appeal			0
20	01/22/2004	01/21/2004	N/AP	Notice of Appeal Filed		1	19
19	10/21/2003		MCTFR	Mail Final Rejection (PTOL - 326)			0
18	10/20/2003		CTFR	Final Rejection			0
17	08/07/2003		FWDX	Date Forwarded to Examiner			0
16	07/30/2003	06/26/2003	A...	Response after Non-Final Action		32	14
15	07/30/2003		XT/G	Request for Extension of Time - Granted			0
14	03/28/2003	02/13/2003	MCTNF	Mail Non-Final Rejection	42		1
13	03/27/2003		CTNF	Non-Final Rejection			0
12	01/29/2003		DOCK	Case Docketed to Examiner in GAU			0
11.7	07/30/2002		MI44	Information Disclosure Statement (IDS) Filed			0
11	07/30/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
9	06/04/2002		DOCK	Case Docketed to Examiner in GAU			0
8	05/16/2002		OIPE	Application Dispatched from OIPE			0
7	05/16/2002		CONP	Application Is Now Complete			0
10.7	05/13/2002		MI44	Information Disclosure Statement (IDS) Filed			0
10	05/13/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
5	04/24/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
4	01/31/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	01/12/2002		SCAN	IFW Scan & PACR Auto Security Review			0
2	01/04/2002		SCAN	IFW Scan & PACR Auto Security Review			0
1	12/13/2001		IEXX	Initial Exam Team as			0

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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)
7,149,469	2006-12-12	10/022,186	2001-12-11	REED1004

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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	/KWWang/	Date (YYYY-MM-DD)	2011-11-21
Name	KARRY W. WANG	Registration Number	50178

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7149469
Issue Date: December 12,2006
Application No. 10022186
Filed: December 11,2001
Attorney Docket No. REED1004

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

This is a decision on the electronic petition, filed November 21,2011 ,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 November 21,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES 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.

K&L Gates LLP
3580 Carmel Mountain Road
Suite 200
San Diego CA 92130

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Patent No. 7,647,184	:	DECISION ON REQUEST
Vega et al.	:	FOR
Issue Date: January 12, 2010	:	RECONSIDERATION OF
Application No. 10/022,249	:	PATENT TERM ADJUSTMENT
Filed: December 17, 2001	:	and
Atty Docket No. 3800073.00002 / 911	:	NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 12, 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 hundred thirty-four (234)** days. This petition was recently forwarded to the undersigned for consideration.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by **two hundred thirty-two (232)** days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on the day *after* the three year anniversary of the filing date of this application, December 18, 2004 and ends on August 30, 2005, the day *before* the RCE was filed. See 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 256 not 258 days.

Patentee further argues that no reduction is warranted for the copies of previously-filed IDSs filed as a Comment on the Statements of the Reasons for Allowance. The record has been reviewed and patentee's argument has been found persuasive as the IDSs were previously-filed prior to the mailing of the notice of allowance. The period of reduction of 10 days entered pursuant to 37 CFR 1.704(c)(10) is removed. As such, the patent term adjustment is increased to 232 days.

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.

The Office acknowledges 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 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 hundred thirty-two (232)** days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,647,184 B2

DATED : **January 12, 2010** **DRAFT**

INVENTOR(S) : Vega 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 0 days

Delete the phrase "by 0 days" and insert – by 232 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

DAVID LOWRY
BROWN RUDNICK BERLACK ISRAELS
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED
FEB 10 2012
OFFICE OF PETITIONS

In re Patent No. 7,046,695 :
Issue Date: May 16, 2006 :
Application No. 10/022,333 : DECISION ON PETITION
Filed: December 20, 2001 :
Attorney Docket No: 4191-001A :

This is a decision on the petition under 37 CFR 1.378(c), filed January 23, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 16, 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.

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).

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: ROY L. SALOMONS
63-95 AUSTIN STREET, APT. 4J
FOREST HILLS, NY 11374

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Patent No. 6,593,721 :
Issue Date: July 15, 2003 :
Application No. 10/022,513 : NOTICE
Filed: December 20, 2001 :
Attorney Docket No. 3313-0447P-SP :

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 September 29, 2006, 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. Further, please review the current fees from the US Patent and Trademark Office website at www.uspto.gov.

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
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Alexandria, VA 22313-1450
www.uspto.gov

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Patent No. 6,593,721 :
Issue Date: July 15, 2003 :
Application No. 10/022,513 : NOTICE
Filed: December 20, 2001 :
Attorney Docket No. 3313-0447P-SP :

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7120925	2006-10-10	10022650	2001-12-17	60136.0134US01

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SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Christopher J. Leonard/	Date (YYYY-MM-DD)	2011-03-15
Name	Christopher J. Leonard	Registration Number	41940

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7120925
Issue Date: October 10,2006
Application No. 10022650
Filed: December 17,2001
Attorney Docket No. 60136.0134US01

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:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
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Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7343408	2008-03-11	10022902	2001-12-20	

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael A. Schwartz/	Date (YYYY-MM-DD)	2012-03-27
Name	Michael A. Schwartz	Registration Number	40161

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7343408
Issue Date: March 11,2008
Application No. 10022902
Filed: December 20,2001
Attorney Docket No. 19527.0004

:
: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 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 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

MAILED

AUG 04 2010

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Robert J. Crowley	:	
Application No. 10/022965	:	
Filing or 371(c) Date: 12/13/2001	:	ON PETITION
Attorney Docket Number:	:	
11219.0094-04000	:	

This is a decision on the Petition Under 37 CFR 1.137(b), filed March 31, 2010, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 27, 2009. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on November 29, 2010.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

A courtesy copy of this decision is being mailed to the address noted on the petition. However, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 3737 for processing of the Amendment filed with the petition in due course.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: OLEG F. KAPLUN,
150 BROADWAY
SUITE 702
NEW YORK, NY 10038

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Application of	:	
Robert J. Crowley	:	
Application No. 10/022965	:	CORRECTED DECISION[1]
Filing or 371(c) Date: 12/13/2001	:	ON PETITION
Attorney Docket Number:	:	
11219.0094-04000	:	

This is a decision on the Petition Under 37 CFR 1.137(b), filed March 31, 2010, to revive the above-identified application.

The petition is granted.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 28, 2009. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No complete and proper reply having been received, the application became abandoned on November 29, 2009.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

A courtesy copy of this decision is being mailed to the address noted on the petition. However, all future correspondence regarding this application will be mailed solely to the address of record.

This application is being referred to Technology Center Art Unit 3737 for processing of the Amendment filed with the petition in due course.

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[1] This Corrected Decision corrects the mail date of the Office action from August 27, 2009 to August 28, 2009.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

CC: OLEG F. KAPLUN,
150 BROADWAY
SUITE 702
NEW YORK, NY 10038

UNITED STATES 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. 10/023,467 : ON PETITION
Filed: 29 November, 2001 :
Attorney Docket No. X2YA0126U-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

---

[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

MAILED

JUN 10 2011

OFFICE OF PETITIONS

DUANE MORRIS LLP - Philadelphia
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

In re Patent of Nowak et al. :
Patent No. 7,297,410 :
Issue Date: November 20, 2007 : Letter
Application No. 10/023,500 :
Filing Date: December 17, 2001 :
Attorney Docket No. E4919-000666 :

This is a notice regarding the request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed May 17, 2011.

The deficiency payment of $490 is hereby accepted.

The change of status to large entity has been entered and made of record.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE SUITE 108
SAN JOSE CA 95131

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,165,102	:	
Issue Date: January 16, 2007	:	
Application No. 10/023,623	:	NOTICE
Filed: December 17, 2001	:	
Attorney Docket No. RZMI-P0704-US	:	

This is a notice regarding your request, April 6, 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

In re Patent No. 7058134
Issue Date: June 6,2006
Application No. 10023632
Filed: December 17,2001
Attorney Docket No. 42P15428

:
: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)
7058134	2006-06-06	10023632	2001-12-17	42P15428

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required 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.**

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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

11-15-2010

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

Patent No. : 7,488,490 B2
Ser. No. : 10/023909
Inventor(s) : Heather L. Davis, et. al.
Issued : February 10, 2009

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.

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.

A certificate will issue to correct the remaining errors noted in your request.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Helen C. Lockhart
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Helen C. Lockhart
Wolf, Greenfield & Sacks, P.C.
Federal Resrve Plaza
600 Atlantic Avenue
Boston MA 02210

MAILED

MAR 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,488,490 :
Issue Date: February 10, 2009 :
Application No. 10/023,909 : DECISION ON PETITION
Filed: December 18, 2001 :
Attorney Docket No. C1039/7058(HCL X04/19/02) :

This is a decision on the Request Under 37 C.F.R. §3.81(b), filed December 20, 2010, requesting correction on the Title Page of the subject patent to identify the correct assignees' names. The Request is being treated as a Petition Under 37 CFR §3.81(b). A completed Certificate of Correction Form (PTO/SB/44) was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to correct the assignees' names on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to correct assignees' names to the Title Page of the Letters Patent.

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 requisite $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Accordingly, since the Petition complies with the provisions of 37 CFR 3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with Petition.

However, petitioner requests several corrections to be made in several Columns. Therefore, these corrections will be handled directly in the Certificate of Correction Branch.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,488,490.

Cheryl Gibson-Baylor
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

VISTA IP LAW GROUP LLP
1885 LUNDY AVENUE SUITE 108
SAN JOSE CA 95131

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,173,927	:	
Issued: February 6, 2007	:	
Application No. 10/023,963	:	ON PETITION
Filed: December 17, 2001	:	
Attorney Docket No. RZMI-P0702-US/RAZA-04100	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 31, 2011.

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

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

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

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

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

Joan Olszewski
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

DEC 0 2 2010

OFFICE OF PETITIONS

In re Application of :
Schelp, et al. :
Application No. 10/024,258 :
Filed: December 21, 2001 :
Attorney Docket No. 05552.1450:

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT—PRE GRANT" filed November 24, 2010, which is properly treated under 37 C.F.R. § 1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from forty-nine (49) days to two hundred and twelve (212) days.

The application for patent term adjustment is **DISMISSED**.

On September 29, 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 49 days. On November 24, 2010, applicants timely submitted the instant application for patent term adjustment[1].

Applicants maintain the patent term should be adjusted by 163 days, pursuant to 37 CFR 1.702(a)(2). Specifically, applicants state that:

> [a]n Office Action … was mailed on July 14, 2004. In a phone conversation with Applicants' representative on August 12, 2004, the Examiner informed Applicant's representative that the restriction mailed July 14, 2004,

[1] The Office records show that the issue fee was received on November 24, 2010.

has been vacated, that no response is required, and that a new restriction would be issued…

Applicant believes an error in patent term adjustment occurred due to the PTO's use of the mailing date of the vacated Office Action (July 14, 2004) instead of the mailing date of February 2, 2005. Applicant respectfully submits that when the Office vacated the July 14, 2004, Office Action, it rendered that Office Action void and inoperative and without any force or effect. Accordingly, the mailing date of July 14, 2004, is irrelevant to Patent Term Adjustment.

An Office Action…was mailed on February 2, 2005, resulting in a PTO delay of 163 days beyond the 4 months provided by 35 U.S.C. 154(b) as measured by Applicant's response filed April 23, 2004.

Excerpt taken from APPLICATION FOR PATENT TERM ADJUSTMENT—PRE GRANT" filed November 24, 2010, *pgs. 2-3.*

37 CFR 1.702 provides that:

(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:

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal taken;

37 CFR 1.703 provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(2) The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

OPINION

Applicants' argument has been considered but is not persuasive. In light of the application history, it has been determined that no additional period of adjustment for Office delay pursuant to 37 CFR 1.702(a)(2) is warranted. It is undisputed that the Office mailed an action under 35 U.S.C. 132 in the form of a restriction requirement on July 14, 2004, within four months of the reply under 37 CFR 1.111 filed April 23, 2004. The subsequent mailing of another Office action under 35 U.S.C. 132 does not alter the date used in calculation of the period of adjustment. Pursuant to 35 U.S.C. 154(b)(1)(A)(ii), applicants are only entitled to day-to-day restoration of term lost as a result of delay created by the Office, after four months from the filing of the reply under 37 CFR 1.111 or appeal taken. The fact that the Office later withdrew the Office action does not negate the fact that the Office took action within the meaning of 37 CFR 1.702(a)(2) on July 14, 2004. Further, the examiner does not have the authority to vacate, rescind, or withdraw an Office action. Unless vacated by the Technology Center Director, for purposes of calculating patent term adjustment, the action originally mailed by the examiner on July 14, 2004, will be used to calculate the amount of Office delay, if any, due to the examination delay pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(2). See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, no additional period of adjustment to the patent term pursuant to 37 CFR 1.702(a)(2) will be entered.

In view thereof, the patent term adjustment at the time of the mailing of the Notice of Allowance remains 49 days.

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.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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Freedman & Associates
55 Murray Street
Suite 230
Ottawa ON K1N 5M3 CA **CANADA**

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Patent No. 6,724,314 :
Issue Date: April 20, 2004 :
Application No. 10/025,500 : NOTICE
Filed: December 26, 2001 :
Patentee(s): Neil Hutton :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on September 28, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SARIA TSENG
MAXXAN CORP.
1975 CONCORUSE DRIVE
SAN JOSE, CA 95131

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Patent No. 6,778,043 :
Issue Date: August 17, 2004 :
Application No. 10/025,665 : DECISION ON PETITION
Filed: December 19, 2001 : UNDER 37 CFR 1.378(b)
Attorney Docket No. MAX.0002US :
Patentee: :

This is a decision on the petition under 37 CFR 1.378(b), filed January 18, 2011, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued August 17, 2004. The first maintenance fee could have been paid from August 17, 2007, through February 19, 2008, or with a surcharge during the period from February 20, 2008 through August 17, 2008. Accordingly, the patent expired at midnight August 17, 2008, for failure to timely submit the first maintenance fee.

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

This petition lacks item (1) above.

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

Petitioner states that the delay in payment of the 3 ½ year maintenance fee was unavoidable due to financial difficulties at the time in question.

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).

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the maintenance fee for this patent. Id.

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 issue of petitioner's financial problems are immaterial in the absence of a showing that these, and not the lack of any steps in place to pay the fee, caused or contributed to the delay.

However, the record fails to show that adequate steps within the meaning of 37 CFR 1.378(b)(3) were taken by or on behalf of petitioner to schedule or pay the maintenance fee. Petitioner is reminded that 37 CFR 1.378(b)(3) is a validly promulgated regulation, as is the requirement therein for petitioner's showing of the steps taken to pay the fee. Ray, 55 F.3d at 609, 34 USPQ2d at 1788. In the absence of a showing of the steps taken by or on behalf of petitioner, 37 CFR 1.378(b)(3) precludes acceptance of the maintenance fee.

Petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due to his financial condition until the petition was filed. Petitioner has stated that the "internal employee assigned for patent affairs was put in furlough and eventually let go. This why the said patent had not been maintained properly." Accordingly, the current showing of record is that petitioner had no steps in place to track and pay the maintenance fee. How is this the actions of prudent and careful men in relation to their most important business? 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. Katrapat, *supra*. Petitioner further states "[t]here are eight pending patents that we reluctantly decided to abandon them in the past two years." Was this patent intentionally abandoned? If not, what are the other eight patents?

A showing of unavoidable delay based upon financial condition must establish that the financial condition of the petitioner during the entire period of the delay was such as to excuse the delay. See Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). The showing of record does not adequately establish that petitioner's entire delay in paying the first maintenance fee from August 17, 2007, until the petition was filed on or about January 18, 2011, was unavoidable within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).

A complete showing, with supporting documentation, is required of the financial condition of petitioner or the party responsible for payment of the maintenance fees. Such showing should include all income, expenses, assets, credit, and obligations, which made the delay in payment of the maintenance fee from August 17, 2007, until the filing of the petition on or about January 18, 2011, "unavoidable." A monthly breakdown is preferred. In essence, petitioner must show that she was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was financially unable to make the payment until the petition was filed. The showing should include documentary proof of the maintenance fee tracking system, the entry of this patent in that system and an explanation of how the system worked.

The petition has not been signed by all of the applicants for patent, an assignee of the entire interest and such assignee has taken action in the application in accordance with 37 CFR 3.71, or a patent attorney or patent agent registered to practice before the office. Petitioner is required to submit a proper statement under 37 CFR 3.73(b).

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

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 concerning this decision should be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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VICTORIA DONNELLY
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HAZELDEAN RPO
KANATA ON K2M 2C3 CA CANADA

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Patent No. 6,915,463 :
Issue Date: July 5, 2005 :
Application No. 10/025,868 : ON PETITION
Filed: December 26, 2001 :
Attorney Docket No. **TR-043-US** :

This is a decision on the petition filed October 8, 2010, to waive the rules and accept the correction of the assignee on the front page of the above-identified patent.

The petition is **dismissed**.

Petitioner requests issuance of a certificate of correction to reflect the name of the assignee for the above-cited patent as "Alcatel-Lucent Canada, Inc." 37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that an assignment to "Alcatel-Lucent Canada, Inc." was recorded on June 19, 2008, after the date of issuance of this patent. Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. See MPEP Section 307.

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 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

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APR 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,915,463 :
Issue Date: July 5, 2005 :
Application No. 10/025,868 : ON PETITION
Filed: December 26, 2001 :
Attorney Docket No. **TR-043-US**

This is a decision on the petition filed December 17, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **dismissed**.

The request under3 7 CFR 3.81(b) must be accompanied by a Certificate of Correction setting forth the requested change to the assignee data. The petition filed December 17, 2010, was not accompanied by a Certificate of Correction, and must be dismissed, accordingly.

The renewed petition must be accompanied by a Certificate of Correction setting forth the requested change to the assignee data.

The renewed request may directed to the following:

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

Questions regarding this decision may be directed to the undersigned at (571)272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Patent No. 6,915,463

Issue Date: July 5, 2005

Application No. 10/025,868

Filed: December 26, 2001

Attorney Docket No. **TR-043-US**

ON PETITION

This is a decision on the petition filed May 4, 2011, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent and other typographical errors by way of Certificate of Correction.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/10/11

TO SPE OF : ART UNIT 2455

SUBJECT : Request for Certificate of Correction for Appl. No.: 10025924 Patent No.: 7372961

CofC mailroom date: 6/03/11

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:

Drawing

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments: _____

_____

_____

_____

_____

Eleni Shiferaw____ ___**2437**____

SPE **Art Unit**

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

JUN 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Onggosanusi et al.	:	
Application No. 10/026,278	:	DECISION ON PETITION
Filed: December 18, 2001	:	
Attorney Docket No. TI-32854	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 2, 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 on December 3, 2010. A Notice of Abandonment was mailed April 13, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) a proper statement of unintentional delay.

Further, 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.

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

This application is being referred to Technology Center AU 2611 for further appropriate action by the Examiner in the normal course of business on the reply received.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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FEB 14 2011

OFFICE OF PETITIONS

PROSKAUER ROSE LLP
ONE INTERNATIONAL PLACE
BOSTON MA 02110

In re Patent No. 7,555,455 : DECISION ON APPLICATION FOR
Issued: June 30, 2009 : PATENT TERM ADJUSTMENT and
Application No. 10/026,358 : NOTICE OF INTENT TO ISSUE
Filed: December 24, 2001 : CERTIFICATE OF CORRECTION
Dkt. No.: MAX-003 :

This is a decision on the petition filed on August 28, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by 1895 days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The above-identified application matured into U.S. Patent No. 7,555,455 on June 30, 2009. The patent issued with a patent term adjustment of 1447 days. Patentees assert that the patent is entitled to an overall patent term adjustment of 1895 days.

The patent is entitled to an overall adjustment of 1894 days. The period of adjustment pursuant to 37 CFR 1.702(b) is 1285 days and not 1286 days. As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period began on December 25, 2004 and ended July 1, 2008, the day before the RCE was filed, and not July 2, 2008. See, 35 U.S.C. 154(b)(1)(B)(i). Thus, the over 3 year period is 1285 days.

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 1894 days (1621 days pursuant to 37 CFR 1.702(a) + 1285 days pursuant to 37 CFR 1.702(b) – 838 overlapping days pursuant to 37 CFR 1.703(f) - 174 days pursuant to 37 CFR 1.704).

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. See, 37 CFR 1.323(a)(4).

The Office acknowledges 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 1894 days.

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,555,455

DATED : June 30, 2009 **DRAFT**

INVENTOR(S) : Agarwal, 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 1447 days

Delete the phrase "by 1447 days" and insert – by 1894 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

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

MAILED
JAN 25 2011
OFFICE OF PETITIONS

In re Application of :
Lawrence R. Miller, et al. :
Application No. 10/026,403 : ON PETITION
Filed: December 21, 2001 :
Attorney Docket No. 72167.000570 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 9, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before November 30, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 31, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 30, 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).

While it is noted that petitioner filed a Request for Continued Examination on November 30, 2010, petitioner failed to submit the required submission in accordance with 37 CFR 1.114. The application became abandoned for failure to timely pay the issue and publication fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

The Technology Center was without authority to act further in the case absent a petition for reviving this application after abandonment.

Any further petition to revive 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.

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) 272-1642

April M. Wise
Petitions Examiner
Office of Petitions

Attachment: Copy of Notice of Allowance previously mailed August 31, 2010.

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

21967 7590 12/30/2009

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

EXAMINER	
PYZOCHA, MICHAEL J	
ART UNIT	PAPER NUMBER
2437	

DATE MAILED: 12/30/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,403	12/21/2001	Lawrence R. Miller	72167.000570	2495

TITLE OF INVENTION: SYSTEM AND METHOD FOR SINGLE SESSION SIGN-ON

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	03/30/2010

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

21967 7590 12/30/2009

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)

(Signature)

(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,403	12/21/2001	Lawrence R. Miller	72167.000570	2495

TITLE OF INVENTION: SYSTEM AND METHOD FOR SINGLE SESSION SIGN-ON

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	03/30/2010

EXAMINER	ART UNIT	CLASS-SUBCLASS
PYZOCHA, MICHAEL J	2437	713-201000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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.

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.
10/026,403	12/21/2001	Lawrence R. Miller	72167.000570	2495

EXAMINER	
PYZOCHA, MICHAEL J	
ART UNIT	PAPER NUMBER
2437	

DATE MAILED: 12/30/2009

21967 7590 12/30/2009

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 570 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 570 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability	Application No.	Applicant(s)	
	10/026,403	MILLER ET AL.	
	Examiner	Art Unit	
	MICHAEL PYZOCHA	2437	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *the response filed 07/06/2009*.

2. ☒ The allowed claim(s) is/are *1-4,6,8-20,23 and 25-29*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

DETAILED ACTION

1. Response filed 07/06/2009 has been received and fully considered.

2. Claims 1-4, 6, 8-20, 23 and 25-29 are pending.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dalei Dong (Reg. No. 60,363) on 12/09/2009.

The application has been amended as follows:

10. (Currently Amended) Computer executable software code stored on a computer-readable storage medium and transmitted as an information signal, the code for validating credentials, the code comprising:

code to input, at a first system that grants session credentials based on successful authentication, a request from a client to access a protected resource on the first system, the protected resource on the first system being accessible by the client only after successful authentication of the client at the first system;

code to determine, at the first system, that a client does not have a valid session credential granted by the first system;

code to retrieve, after the determining that the client does not have a valid session credential granted by the first system, at the first system, information from a session token held by the client, the information corresponding to a session credential for the second system that grants session credentials based on successful authentication at the second system, the second system including a protected resource that is accessible by the client, and the protected resource on the second system being accessible by the client only after successful authentication of the client at the second system;

code to present at least some of the information from the session token to the second system; and

code to input, from the second system to the first system, a determination whether the client has a valid session credential granted by the second system; and

code to effect successful authentication so as to grant access to the protected resource on the first system, to the client based on the determination from the second system that the client has a valid session credential with the second system; and

code to direct the client to the first system to establish a session credential based on successful authentication at the first system, after determining that the client does not have a valid session credential granted by the second system.

11. (Currently Amended) A computer readable storage medium having computer executable code stored thereon, the code for validating credentials, the code comprising: code to input, at a first system that grants session credentials based on successful authentication, a request from a client to access a protected resource on the first system, the protected resource on the first system being accessible by the client only after successful authentication of the client at the first system;

code to determine, at the first system that the client does not have a valid session credential granted by the first system;

code to retrieve from the client, at the first system and after the determining that the client does not have a valid session credential granted by the first system, information from a session token held by the client, the information corresponding to a possible session credential for the second system that grants session credentials based on successful authentication at the second system and that has a protected resource that is accessible by the client, the protected resource on the second system being

accessible by the client only after successful authentication of the client at the second system;

code to present at least some of the information from the session token to the second system; and

code to input, from the second system to the first system, a determination whether the client has a valid session credential granted by the second system; and

code to effect successful authentication to the client so as to grant access to the protected resource on the first system, to the client based on the determination from the second system that the client has a valid session credential with the second system.

Allowable Subject Matter

4. The following is an examiner's statement of reasons for allowance: The prior art teaches a similar single sign on method of the claimed invention, but Applicant's arguments filed 07/06/2009 are persuasive. Specifically, with regard to claim 9 the prior art fails to explicitly disclose "the first system inputting information from the second system, and in response, the first system outputting, to the second system, a determination that the first system has a valid session credential for the client at the first system, and the second effecting successful authentication so as to access, to the further protected resource on the second system, to the client based on the determination from the first system that the client has a valid session credential with the first system". Furthermore, with respect to the remaining claims Applicant's argument with respect to Sampson is persuasive and the prior art fails to teach the determining steps of the claims when in combination with the remaining claimed limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PYZOCHA whose telephone number is

(571)272-3875. The examiner can normally be reached on Monday-Thursday, 7:00am - 3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Pyzocha/
Primary Examiner, Art Unit 2437

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED
FEB 17 2011
OFFICE OF PETITIONS

In re Application of :
Lawrence R. Miller, et al. :
Application No. 10/026,403 : ON PETITION
Filed: December 21, 2001 :
Attorney Docket No. 72167.000570 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 4, 2011, to revive the above-identified application.

The application became abandoned for failure to timely pay the issue and publication fees on or before November 30, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed August 31, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on December 1, 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.

In view of the above, the petition is **GRANTED** *nunc pro tunc*.

Petitioner is advised that the issue fee paid on in conjunction with the filing of the petition on February 4, 2011 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]

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition

[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.*

the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

Telephone inquiries concerning this decision should be directed to the 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 3671 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.

/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

SADLER, BREEN,
MORASCH & COLBY, PS
601 W. MAIN AVE.
SUITE 1300
SPOKANE WA 99201

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of :
Wang :
Application No. 10/026,848 : DECISION
Filed: 21 December, 2001 :
Attorney Docket No. OTOM0026

This is a decision on the petition filed on 22 January, 2010, under 37 C.F.R. §1.27(g)(2) requesting that status as a Small Entity be removed.

NOTE:

It does not appear that Petitioner is empowered in this matter.

If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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.

It does not appear that Petitioner has provided the express schedule of fees/codes, payments made, payments due and differentials, with totals. (*See*: 37 C.F.R. §1.27, §1.28, MPEP §509.02, et seq.)

The Office will not attempt to infer Petitioner's specific intents.

Application No. 10/026,848

As of this writing, Petitioner's submission is **NOT ACCEPTED** in the absence of a specification of the fees/codes, payments made, payments due and differentials, with totals.

Petitioner's 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 §1.27, §1.28."

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

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]

CONCLUSION

The instant petition under 37 C.F.R. §1.27, §1.28 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

[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).

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[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
CC
WILLIAM B. PATTERSON
PATTERSON & SHERIDAN LLP
3040 POST OAK BLVD/STE 1500
HOUSTON, TX 77056

[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
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SEP 2 1 2011

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Application of :
Solomon et al. :
Application No. 10/027,664 :
Filed: May 23, 2011 :
Atty. Docket No. 12587-022001/01316-00/U :

DECISION ON PETITION
AND
NOTICE OF ABANDONMENT

This is a decision on the "Application for Patent Term Adjustment Under 37 C.F.R. § 1.705(b)" filed May 23, 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 two hundred eighty-six (286) days to five hundred twenty (520) days.

The petition is **dismissed**.

The petition argues the period of delay under 37 C.F.R. § 1.703(a) ("A Delay") should include an additional 216 days for Office delay in responding to a reply to an Office action filed May 2, 2006.

Relevant Procedural History

The Office mailed a non-final Office action on December 2, 2005. Applicants filed a reply to the December 2, 2005 Office action on May 2, 2006. The Office mailed a non-final Office action on July 18, 2006. The Office action set a shortened statutory period for reply of three (3) months.

An Interview Summary filed by Applicants on November 15, 2006, states,

> Applicant's representative Stephanie Deckter thanks the Examiner for the telephone interviews that took place on November 8, 2006 and November 15, 2006. The Examiner and Applicant's representative discussed the Response to Arguments section of the Office action mailed on July 18, 2006. Applicant thanks the Examiner for agreeing to vacate the July 18, 2006 Office action and issue a new Non-Final Office Action that (1) includes a detailed response to Applicant's arguments and remarks made in the previous response filed on May 2, 2006, and (2) resets the time for response based on the mailing date of the new Non-Final Office Action.

Applicants' representative and Supervisory Patent Examiner John Hayes participated in a telephonic interview on January 18, 2007.

Applicants filed an Interview Summary discussing the January 18, 2007 interview on the same date as the interview. Applicants' Interview Summary states,

> The SPE and Applicant's representative discussed the previous telephone interviews between Examiner Borrisov and Applicant's representative during which the Examiner agreed to vacate the July 18, 2006 Office action and issue a new Non-Final Office Action Action that (1) includes a detailed response to Applicant's arguments and remarks made in the previous response filed on May 2, 2006, and (2) resets the time for response based on the mailing date of the new Non-Final Office Action.
>
> The SPE assured Applicant's representative that a new Non-Final Office Action will be issued and that Applicant need not respond to the July 18, 2006 Office action to avoid abandonment.

The Office's Interview Summary discussing the January 18, 2007 interview states,

> SPE Hayes agreed that the [July 18, 2006 Office] action did not adequately address applicant's arguments filed 02 May 2006. Therefore, Examiner Borissov will issue a new non-final rejection.

On March 29, 2007, Applicants filed an Interview Summary discussing an earlier telephonic interview with the examiner on the same date. Applicants' Interview Summary states,

> The Examiner and Applicants' representative discussed the pending claims, specifically focusing on claims 1, 6, 11, and 36-61....
>
> The Examiner indicated that he would issue a new Non-Final Office Action that resets the time for response based on the mailing date of the new Non-Final Office Action.

The examiner issued a non-final Office action on April 6, 2007. The Office Action Summary mailed April 6, 2007, states the Office action responds to the "communication(s) filed on 29 March 2007." The tenth page of the Office action states, "Applicant's arguments filed 5/02/2006 have been fully considered but they are not persuasive." The Office action does *not* state the July 18, 2006 Office action is withdrawn or vacated.

Discussion

Entry of a 216-day Increase in Patent Term Adjustment is Unwarranted

The petition states,

> A PTO action was due on or before September 2, 2006 (the date that is four months after May 2, 2006, the date on which a response to [an] Office Action was filed). The PTO

> mailed a non-final Office Action on July 18, 2006. The examiner subsequently mailed an Examiner Interview Summary on January 18, 2007. In the Examiner Interview Summary, the Examiner agreed that the non-final Office action mailed July 18, 2006, did not adequately address Applicants' arguments filed May 2, 2006, would be vacated, and a new Office action would be issued. The PTO mailed a non-final Office action on April 6, 2007. The PTO calculated 0 days of PTO Delay for the non-final Office action mailed April 6, 2007. Applicants respectfully submit that a PTO Delay of 216 days is appropriate for the PTO Delay from September 3, 2006 (the day after the date that is four months after the date on which the response to the Office action was filed), to April 6, 2007. See 37 C.F.R. §§ 1.702(a)(2) and 1.703(a)(2).

The petition appears to argue the Office should, in essence, ignore the existence of the July 18, 2006 Office action when calculating patent term adjustment because:

1. The Examiner Interview Summary mailed January 18, 2007, agreed the July 18, 2006 Office action would be vacated; and
2. "The PTO mailed a non-final Office action on April 6, 2007."

Although the petition asserts the Examiner Interview Summary indicates the July 18, 2006 Office action will be vacated, a review of the Examiner Interview Summary indicates the document does not state the July 18, 2006 Office action will be vacated.

Even if the Office had mailed a non-final Office action on January 18, 2007, clearly stating the July 18, 2006 Office action was vacated, entry of a 216-day increase in patent term adjustment would not be warranted.

The vacatur of an Office action signifies that the Office action has been set aside, voided, or withdrawn as of the date of the vacating Office action or notice. The vacatur of an Office action, however, does not signify the vacated Office action is void *ab initio* and is to be treated as if the Office had never issued the Office action. The patent examination process provided for in 35 U.S.C. §§ 131 and 132 contemplates that Office actions containing rejections, objections or requirements will be issued, and that the applicant will respond to these Office action, "with or without amendment." 35 U.S.C. § 132(a). The mere fact that an examiner or other Office employee upon further reflection determines that an Office action, or that a rejection, objection or requirement in an Office action, is not correct and must be removed does not warrant treating the Office action as void *ab initio* and as if the Office had never issued the Office action.

The USPTO appreciates that there are situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the Office had never issued the Office action. However, these are extremely rare situations, such as the issuance of an Office action or notice by an employee who does not have the authority to issue that type of Office action or notice, the issuance an Office action or notice in the wrong application, or the issuance of an Office action or notice containing language not appropriate for inclusion in an official document. In essence, the situations in which it is appropriate to treat an Office action or notice issued in an application as void *ab initio* and as if the Office had never issued the Office action

are the situations in which it is appropriate to expunge an Office action or notice from the USPTO's record of the application.

The record does not indicate the July 18, 2006 Office action was, or should have been, expunged. Therefore, even if the Office had issued an Office action explicitly stating the July 18, 2006 Office action was vacated, it would be improper to ignore the existence of the July 18, 2006 Office action when calculating patent term adjustment.

In view of the prior discussion, the record is insufficient to establish a 216-day increase in patent term adjustment is warranted for Office delay in responding to the reply filed May 2, 2006.

The Application is Abandoned

The Office mailed a non-final Office action on July 18, 2006. The Office action rejected all the pending claims. Specifically, the Office action rejected claims 1, 3-6, 8-11, 13-15, and 35-51.

The Office action rejected claims 1, 3-6, 8-11, and 13-15 under 35 U.S.C. § 112, second paragraph.

The Office action rejected claims 1, 6, 11 and 36 under 35 U.S.C. § 101.

The Office action rejected claims 36-51 under 35 U.S.C. § 102(e) as being anticipated by Walker et al. (US 2002/0169664).

The Office action rejected claims 1, 3-6, 8-11,13-15, and 35 under 35 U.S.C. § 1.103(a) as being unpatentable over Walker in view of Gharavy (US 2003/0004840).

The tenth page of the Office action included a section titled, "Response to Arguments," which consisted of a single sentence. The section stated, "Applicants arguments filed 5/02/2006 have been fully considered but are moot in view of the new ground(s) of rejection."

The Office action set a shortened statutory period for reply of 3 months. The cover page stated, "Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133)."

Applicants did not file a reply to the Office action within the three-month shortened statutory period, Applicants did not file a request for an extension of time, and the Office did not withdraw or vacate the Office action prior to the expiration of the six-month statutory period for reply. As a result, the application became abandoned on October 19, 2006.

The Office recognizes the examiner has issued several Office actions after the expiration of the statutory period to reply to the July 18, 2006. However, an application does not cease being abandoned just because an examiner has failed to recognize the application is abandoned. As stated in *In re Goodman*, 3 U.S.P.Q. (BNA) 1866 (Comm'r Pat. 1987), "oversight on the part of the examiner can not serve to save [an] application [from abandonment]." *Id.* at 1869 (*citing Lorenz v. Finkl*, 333 F.2d 885, 890-91 (CCPA 1964)).

Applicants may wish to file a petition to revive the application 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, the required petition, and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

In view of the past prosecution history of the application, the Office will treat the requirement for a "reply" as satisfied and a new "reply" does not need to be filed.

The current large-entity fee for a petition under 37 C.F.R. § 1.137(b) is $1,620. However, Applicants may wish to note the fee will increase to $1,860 on September 26, 2011.

A copy of a PDF "fillable" petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064.pdf.

Conclusion

In view of the prior discussion, the petition requesting an increase to the patent term adjustment is dismissed.

As previously discussed, the application is abandoned.

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.[2] 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

[1] A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

[2] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

Technology Center Art Unit 3628 will be informed of the instant decision and the art unit will change Office records to indicate the application became abandoned on October 19, 2006, as a result of Applicants' failure to file a timely reply in response to the Office action issued July 18, 2006.

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

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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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Application of Solomon et al. :
Application No. 10/027,664 : Decision on Petition
Filing Date: December 20, 2001 :
Attorney Docket No. 12587/0022001 :

This is a decision on the petition under 37 C.F.R. § 1.181 filed October 21, 2011, requesting withdrawal of the holding of abandonment. This is also a decision on the petition filed in the alternative under 37 C.F.R. § 1.137(b).

The petition under 37 C.F.R. § 1.181 is **dismissed**.

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

Facts

The Office mailed a non-final Office action on July 18, 2006. The Office action set a shortened statutory period for reply of three (3) months.

An interview summary filed by Applicants on November 15, 2006, states,

> Applicant's representative Stephanie Deckter thanks the Examiner for the telephone interviews that took place on November 8, 2006 and November 15, 2006. The Examiner and Applicant's representative discussed the Response to Arguments section of the Office action mailed on July 18, 2006. Applicant thanks the Examiner for agreeing to vacate the July 18, 2006 Office action and issue a new Non-Final Office Action that (1) includes a detailed response to Applicant's arguments and remarks made in the previous response filed on May 2, 2006, and (2) resets the time for response based on the mailing date of the new Non-Final Office Action.

Applicants' representative and Supervisory Patent Examiner John Hayes participated in a telephonic interview on January 18, 2007. Applicants filed an interview summary discussing the January 18, 2007 interview on the same date as the interview. Applicants' interview summary states,

> The SPE and Applicant's representative discussed the previous telephone interviews between Examiner Borrisov and Applicant's representative during which the Examiner

> agreed to vacate the July 18, 2006 Office action and issue a new Non-Final Office Action Action that (1) includes a detailed response to Applicant's arguments and remarks made in the previous response filed on May 2, 2006, and (2) resets the time for response based on the mailing date of the new Non-Final Office Action.
>
> The SPE assured Applicant's representative that a new Non-Final Office Action will be issued and that Applicant need not respond to the July 18, 2006 Office action to avoid abandonment.

The Office's interview summary discussing the January 18, 2007 interview states,

> SPE Hayes agreed that the [July 18, 2006 Office] action did not adequately address applicant's arguments filed 02 May 2006. Therefore, Examiner Borissov will issue a new non-final rejection.

On March 29, 2007, Applicants filed an interview summary discussing an earlier telephonic interview with the examiner on the same date. Applicants' interview summary states,

> The Examiner and Applicants' representative discussed the pending claims, specifically focusing on claims 1, 6, 11, and 36-61.... The Examiner indicated that he would issue a new Non-Final Office Action that resets the time for response based on the mailing date of the new Non-Final Office Action.

The examiner issued a non-final Office action on April 6, 2007. The Office Action Summary section of the Office action states the Office action responds to the "communication(s) filed on 29 March 2007." The tenth page of the Office action states, "Applicant's arguments filed 5/02/2006 have been fully considered but they are not persuasive."

The April 6, 2007 Office action does *not* state the July 18, 2006 Office action is withdrawn or vacated.

Discussion

37 C.F.R. § 1.2 states,

> 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.

In view of 37 C.F.R. § 1.2, the resolution of issues raised by the petition will be based solely on the written record.

The petition states,

> Applicant submits that the discussions with the Examiner on November 8, 2006 and November 15, 2006 and the filing of the written Interview Summary on November 15, 2006 was a *bona fide* response to the non-final Office action mailed on July 18, 2006.

The first issue to be addressed by the Office is, in essence, whether or not the Office should have treated the November 15, 2006 interview summary as a reply under 37 C.F.R. 1.111(b) to the July 18, 2006 Office action and charged Deposit Account No. 06-1050 the sum of $130 for a one-month extension of time.

A review of the record indicates the Office properly did not treat the November 15, 2006 interview summary as a reply to the July 18, 2006 Office action.

The main body of the interview summary does not include any language asserting the paper is intended to be a response to the Office action.

The interview summary is titled "Interview Summary." In other words, the title of the paper does not indicate the paper is intended to be an interview summary *and* a response to the July 18, 2006 Office action.

The interview summary states, "No fee is believed to be due at this time." *If* the interview summary had been a response to the Office action, a one-month extension of time fee would have been clearly due at the time the paper was filed. Therefore, the assertion Applicants believe no fee is due implies Applicants do not intend for the interview summary to be a response to the Office action.

The petition asserts, during the January 18, 2007 interview, "the Office confirmed to applicant that no *further* response was needed." Petition, p. 5 (emphasis added). The January 18, 2007 interview summary does not include any reference to a prior response being filed. Instead, the January 18, 2007 interview summary states, "The SPE assured Applicant's representative ... that Applicant need not respond to the July 18, 2006 Office action to avoid abandonment." Therefore, the interview summary does not support a conclusion that Applicant's representative had the SPE confirm no additional reply was necessary.

In view of the prior discussion, the petition fails to establish the Office should have treated the November 15, 2006 interview summary as a reply under 37 C.F.R. § 1.111 and charged Deposit Account No. 06-1050 the sum of $130 for a one-month extension of time.

The second issue to be addressed by the Office is, *if* the November 15, 2006 interview summary was a reply to the Office action, was it a *proper* reply?

A review of the record indicates, even if the interview summary was as reply to the Office action, the interview summary was not a proper reply to the Office action.

37 C.F.R. § 1.111(b) states,

> In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references.... A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

The petition asserts the July 18, 2006 Office action was deficient. The petition indicates the Office action was deficient because:

1. The Office action "repeated the prior art rejections verbatim from the" prior Office action;
2. The Office action "did not address the new claim language introduced by the amendments to claims 36-39, 41-46, and 48-50";
3. The Office action "did not address written arguments made in the response filed on May 2, 2006," but merely stated the arguments had been considered; and
4. The Office action "Indicated that the arguments were moot in view of new grounds of rejection that did not exist."

Unfortunately, the November 15, 2006 interview summary did not explicitly identify the four deficiencies set forth above. Instead, the interview summary merely (and implicitly) asserts the Office action's response to the arguments and remarks made by the prior amendment was not "detailed."

A mere assertion an Office action does not include a "detailed" response to arguments made in a prior amendment is *not* the equivalent of directly and specifically pointing out the supposed errors in the Office action. Therefore, the interview summary was not a complete reply to the Office action.

The Office has the discretion to treat an incomplete reply to a non-final Office action as sufficient to avoid abandonment of an application in some circumstances. Specifically, 35 C.F.R. § 1.135(c) states,

> When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

The instant case does not involve a substantially complete reply. In this case, the "reply" asserts the Office action's response to the arguments and remarks made by the prior amendment was not

"detailed." A mere assertion that an Office action's response to prior arguments is not "detailed" is not a substantially complete reply to the Office action.

In view of the prior discussion, even if the November 15, 2006 interview summary was a reply to the July 18, 2006 Office action, the interview summary was not a proper reply to the Office action.

Applicants' argue the Office's actions after November 15, 2006, such as mailing a new non-final Office action on April 6, 2007, indicates "the Examiner considered the multiple interviews and the Interview Summary filed on November 15, 2006 to be a *bona fide* attempt to response to the Office action." However, an application does not cease being abandoned just because an examiner has failed to recognize the application is abandoned. As stated in *In re Goodman*, 3 U.S.P.Q. (BNA) 1866 (Comm'r Pat. 1987), "oversight on the part of the examiner can not serve to save [an] application [from abandonment]." *Id.* at 1869 (*citing Lorenz v. Finkl*, 333 F.2d 885, 890-91 (CCPA 1964)). Although the Office regrets the delay in notifying Applicants the application is abandoned, the Office is under a duty to "step in to take corrective action as to matters which come to [the Office's] attention which may result in a cloud upon any patent that may issue." *Id.* at 1872.

Since the record fails to establish the November 15, 2006 interview summary was a proper reply to the July 18, 2006 Office action, the application is abandoned and the holding of abandonment will not be withdrawn.

Applicants request relief in the alternative under 37 C.F.R. § 1.137(b). The Office has reviewed the record and determined the requirements of 37 C.F.R. § 1.137(b) have been satisfied.[1] Therefore, the petition under 37 C.F.R. § 1.137(b) is granted and the application is hereby revived.

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] 37 C.F.R. § 1.137(b)(3) requires "a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) [was] unintentional." To the extent any statement of delay in the petition varies from this exact language, the statement will be construed as the equivalent of the statement above.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

SEP 20 2010

SCHLUMBERGER TECHNOLOGY CORPORATION
14910 Airline Rd.
P.O. Box 1590
Rosharon, TX 77583-1590

APPLICANT: CHENGHUA OLIVER HAN	:	DECISION ON PETITION
SERIAL NO. 10/027,727	:	UNDER 37 CFR 1.81(a)
FILED: December 21, 2001	:	
FOR: SHAPED-CHARGE	:	

This is in response to the petition under 37 CFR 1.81(a) filed on July 7, 2010 for a corrected Examiners Answer designating new grounds of rejection

The petition is **DENIED**.

Applicant argues that the examiner has introduced and extensively relied upon the English translation of a German publication to Frye, which is considered new evidence in the 102 and 103 rejections of the claims for the first time in the examiner's answer dated May 7, 2010. Applicant requests that the examiner's answer dated May 7, 2010 be withdrawn and a corrected examiner's answer be issued, which designates the new grounds of rejection based on the English translation of the reference Frye.

The record shows that on August 11, 2009 the examiner issued a final Office action rejecting claims for the first time on a foreign language document. In the rejection, the examiner related the various elements of the claim to the figures of the document.

On November 11, 2009 a notice of appeal along with a pre-appeal brief was filed.

On February 15, 2010 an appeal brief was filed.

On May 7, 2010 the examiner issued an examiner's answer and provided an English translation of the foreign language document. In the answer and as pointed out in the petition, the examiner relied on various parts of the translated document to support his position.

MPEP 1207.03III provides guidance as to situations that may not be considered as new grounds of rejection. This section recites: "There is no new ground of rejection when the basic thrust of the rejection remains the same such that appellant has been given a fair opportunity to react to the rejection.". Additionally this section states: "Where the statutory basis for the rejection remains the same, and the evidence relied upon in support of the

rejection remain the same, a change in the discussion of, or rationale in support of, the rejection does not necessarily constitute a new ground of rejection".

A review of the examiners final rejection correlated elements of the claim to the figures of the drawings of the foreign language document. With regard to the slot the examiner pointed to two optional areas, namely 26 and 30, or alternatively 32 or 34. Also, there was explicit discussion of the interpretation of the language "adapted to fracture".

In the examiners answer, the specific grounds of rejection (matching of elements) remains the same as in the final rejection. However in the response to applicant's argument section of the answer, the examiner refers to various parts of the translated document.

With respect to the "adapted to fracture" limitation in the claim the examiner does in fact point to a section of the reference for explicit support of the "adapted to fracture" language. However, his original position is supported on page 6 of the examiner's answer beginning at line 7 which does not rely on the translated document but is more related to claim interpretation.

With respect to the slots, the examiner doesn't appear to rely upon the translated document. In support of his position he indicates that the portion indicated as the slots, although extending in the radial fashion also "contain an axially oriented component associated with the depth of the slot and it associated orientation". The examiners mention of an adhesive appears to be merely to direct the applicant to a specific part of the figure and is not relying on the fact that the reference contains an adhesive at all. Note that none of the claims recite the use of an adhesive.

In that the statutory basis for rejection remains the same and the examiner is relying on the figures as originally set forth in the final rejection it is determined that the evidence relied upon remains the same, although the examiner added some discussion and rationale clarifying his original position. Therefore, the petition is Denied.

Any question concerning this decision should be referred to Supervisory Patent Examiner Michael Carone at 571-272-6873.

Kathy Matecki

Kathy Matecki, Director
Technology Center 3600
(571) 272-5250

mc/lm: 8/20/2010

LM

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7319715
Issue Date: January 15,2008
Application No. 10028080
Filed: December 21,2001
Attorney Docket No. 00003-0210

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

This is a decision on the electronic petition, filed March 12,2012 ,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 12,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7319715	2008-01-15	10028080	2001-12-21	00003-0210

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/G. Peter Albert, Jr./	Date (YYYY-MM-DD)	2012-03-12
Name	G. Peter Albert, Jr.	Registration Number	37268

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6506082
Issue Date: January 14,2003
Application No. 10028202
Filed: December 21,2001
Attorney Docket No. 3234

:
: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 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 3,2011 . 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)
6,506,082	2003-01-14	10/028,202	2001-12-21	11390.0028

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James J. Boyle Reg. #46570/	Date (YYYY-MM-DD)	2011-03-03
Name	James J. Boyle	Registration Number	46570

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND
CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
AUG 18 2010
OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
Nowlin et al.	:	FOR RECONSIDERATION OF
Patent Number: 7,610,248	:	PATENT TERM ADJUSTMENT
Issue Date: 10/27/2009	:	
Application No. 10/028,888	:	
Filing or 371(c) Date: 12/19/2001	:	
Attorney Docket Number:	:	
020375-006500US	:	

This is a decision on the request for reconsideration filed under 37 CFR 1.705(d) on May 13, 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 one thousand nine hundred fifty-one (1951) days. For the reasons stated below, the request for reconsideration will be treated as a petition requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand eight hundred fifty-five (1855) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand eight hundred fifty-five (1855) days is **GRANTED TO THE EXTENT INDICATED**.

Applicants request reconsideration of the Decision on Request for Recalculation of Patent Term Adjustment In View of Wyeth, mailed on April 21, 2010, which stated the patent term adjustment had been determined to be 1623 days. Applicants assert that the patent term adjustment should be 1951 days.

As to the "A" delay, the period is 7 days, beginning on the day after the date 14 months after the date the application was filed, December 20, 2004, and ending on the date the first Office action was mailed, February 26, 2003. As to the "B" delay, the period is 0 days, not 1773 days. This period begins 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), and ends on the issue date of the patent, or 1773 days, but not including the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, November 12,

2003, and ending on ending on the date of the last decision by the Board of Patent Appeals and Interferences, March 10, 2009, or 1946 days. See, 35 U.S.C. 154(b)(1)(B)(ii). Thus, the "B" delay period is 0 days (1773 days – 1946 days), not 1773 days[1].

Petitioners further state that an additional period of reduction of 3 days for applicant delay should be assessed, in connection with the submission of the application data sheet (ADS) filed on July 23, 2009, after the mailing of the notice of allowance. Petitioners state the period of reduction in connection with the filing of this IDS should be 100 days rather than 97 days.

37 CFR 1.704(c)(10) states that 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 the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping: submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of: (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or (ii) Four months.

On July 23, 2009, the ADS was filed, after the mailing of a notice of allowance. On October 27, 2009, 97 days after the filing of the ADS filed after the mailing of a notice of allowance, the patent was issued. Accordingly, the period of reduction for applicant delay was properly calculated as 97 days, and no additional reduction is warranted.

The patent term adjustment at the time of issuance of the patent is 1855 days (7 days of Office delay + 0 days of over three years delay + 1946 days of delay for successful appellate review – 98 days of applicant delay).

The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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. See 37 CFR 1.323(a)(4).

No fee was required with the subject request for reconsideration. The $200.00 fee submitted with the petition will be credited to counsel.

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[1] The Office notes that where a request for continued examination ("RCE"), has been filed, the period of appeal is only reduced if such appeal period occurred prior to the filing of the RCE. If no RCE has been filed, the period of appeal is reduced if it occurs at anytime during the pendency of application.

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 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 eight hundred fifty-five **(1855)** days.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,610,248 B1

DATED : **Oct. 27, 2009** **DRAFT**

INVENTOR(S) : Nowlin 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 1675 days.

Delete the phrase "by 1675 days" and insert – by 1855 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

Paper No.

Melvin K. Silverman
Suite 500
500 West Cypress Creek Road
Fort Lauderdale FL 33309

MAILED

JAN 03 2012

OFFICE OF PETITIONS

In re Application of :
Hollander et al. :
Application No. 10/028,953 :
Patent No.: 6,648,643 : DECISION ON PETITION
Filed: December 19, 2001 : PURSUANT TO
Issued: November 18, 2003 : 37 C.F.R. § 1.28(c)
Attorney Docket No.: 1065.39 :
Title: DENTAL IMPLANT/ABUTMENT :
INTERFACE AND SYSTEM HAVING :
PRONG AND CHANNEL :
INTERCONNECTIONS :

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 15, 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 $2180.00 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.

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.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions

cc: Sheridan K. Snedden
Pillsbury Winthrop Shaw Pittman LLP
P.O. Box 10500
McLean, VA 22102

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/27/10 Paper No.: ———

TO SPE OF : ART UNIT 2471

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/629616 Patent No.: 7354871 B1

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: _____

AU2471

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 13 2011

OFFICE OF PETITIONS

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

In re Patent No. **6,515,659**
Issue Date: February 4, 2003
Application No. 10/029,625
Filed: December 19, 2007
Attorney Docket No. **76882-8003.US01**

NOTICE UNDER 37 CFR 1.28(C)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. 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 Monica A. Graves 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

Ms. Sandra Swain
Sybron Dental Specialities, Inc.
1717 West Collins Avenue
Orange CA 92867

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of :
Ajit Karmaker et al. :
Application No. 10/029,782 : NOTICE
Patent No. 6,846,181 :
Filed: October 26, 2001 :
Attorney Docket No. **96384**

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

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

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

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

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: **WOOD, HERRON & EVANS, L. L. P.**
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

UNITED STATES PATENT AND TRADEMARK OFFICE

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ELI LILLY & COMPANY
PATENT DIVISION
P.O. BOX 6288
INDIANAPOLIS IN 46206-6288

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DEC 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,878,725	:	
Liebeschuetz et al.	:	DECISION ON RESPONSE
Issue Date: 04/12/2005	:	TO DECISION ON APPLICATION
Application No. 10/030,189	:	FOR PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/04/2002	:	UNDER 37 CFR 1.705(d)
Attorney Docket No.	:	
PC19499A	:	

This is in response to the petition filed on December 22, 2006. Patentee requests reconsideration of the determination of patent term adjustment by removing a reduction of 120 days assessed to Patentees pursuant to 37 CFR 1.704(c)(10).

The request for reconsideration of patent term adjustment is **DISMISSED.**

On April 12, 2005, the above-identified application matured into U.S. Patent No. 6,878,725. The patent issued with a PTA of zero (0) days. The present renewed request for reconsideration of patent term adjustment was timely filed within two months of a decision dismissing the original petition for reconsideration of patent term adjustment.

Patentees renew their objection to the reduction of 120 days in connection with the filing of a letter entitled "Comments on Notice of Allowability – Acknowledgment of Claim to Foreign Priority and of Receipt of Foreign Priority Documents."

In the original petition, filed June 2, 2005, applicant admitted that the letter was asking this Office to check that certified copies of foreign priority documents had been received. The petition was dismissed in a decision mailed November 2, 2006. The decision dismissing the petition provided that 37 CFR 1.704(c)(10) "does not distinguish between papers that are and are not required by the Office, and that filing of any papers after allowance, other than those identified in the Notice[1], will be treated as a failure to engage in reasonable efforts to conclude prosecution.

[1] The Notice is entitled "Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice if Allowance," 1247 OG 111 (June 26, 2011).

With the present renewed petition, Patentees' provide that the agent prosecuting the application repeatedly requested that the Examiner acknowledge priority and confirm receipt of the certified copies of the priority documents. Nevertheless, Patentees provide, the Examiner never did acknowledge priority nor confirm that the certified copies of the priority documents all had been received from WIPO.

Patentee's therefore, in response to the Notice of Allowability (wherein it is stated that "Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee. Such submissions should be clearly labeled 'Comments on Statement of Reasons for Allowance.'"), re-submitted a paper to again request acknowledgment of foreign priority documents and confirmation that certified copies of the priority documents had been received from WIPO.

Patentee's aver that the statement in the decision, that filing of any papers after allowance, other than those identified in the Notice , will be treated as a failure to engage in reasonable efforts to conclude prosecution, is arbitrary and incorrect because the list provided in the Notice if exemplary and not intended to be an exhaustive list.

Patentees' arguments have been carefully considered.

Submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. *See*, 37 CFR 1.704(c)(10) and *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). *See, also*, MPEP 2737. The MPEP 2737 continues as follows: The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL- 85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) ***a status letter***; (3) amendments under 37 CFR 1.312; (4) ***late priority claims***; (5) ***a certified copy of a priority document***; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months. (Emphasis added).

A review of the record reveals that the Examiner mailed Office actions, including the Notice of Allowability, on March 19, 2003; July 1, 2003, December 10, 2003, and March 22, 2004. None

of the Office actions contained an acknowledgment of the claims for foreign priority. A review of the application file reveals that applicant did not file certified copies of the foreign priority documents, and the patent issued without a priority claim.

After the mailing of the Notice of Allowance, Patentee filed a "letter" asking this Office to check that certified copies of the priority documents had been received.

The filing of the "letter" asking this Office to check that certified copies of the priority documents had been received is a paper considered a failure to engage in reasonable efforts to conclude prosecution. The PTA was correctly reduced by a period of 120 day in accordance with 37 CFR 1.704(c)(10), beginning on the date the "letter" was filed, and ending 120 days later per 37 CFR 1.704(c)(10).

In view thereof, it is concluded that the patent correctly issued with a revised Patent Term Adjustment of zero (0) days, and no adjustment to the patent term will be made.

Receipt is acknowledged of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 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.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 13 2010

OFFICE OF PETITIONS

In re Application of :
Zitzmann et al. :
Application No. 10/031,145 : ON APPLICATION FOR
Filed: July 3, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 080618-0241:

This is in response to the Request for Reconsideration of Patent Term Adjustment, 37 C.F.R. § 1.705, filed January 28, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand one hundred fifty-seven (1157) days, not seven hundred forty-seven (747) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

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 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 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 as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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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.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Patent No. 7,574,372
Issued: August 11, 2009
Application No. 10/031,405
Filed: January 18, 2002
Attorney Docket No. A7736

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the RENEWED REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on August 18, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 605 days to 913 days.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. *See,* MPEP 1002.02.

The patent term adjustment indicated in the previous decision mailed July 20, 2010 is properly indicated.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 23, 2005, three years and one day after the date the national stage commenced under 35 U.S.C. 371(f), and ended on August 7, 2007, the day before the RCE was filed, the B delay is 623 (not 931) days. See 35 U.S.C. 154(B).

Applicant argues that "the B delay started January 19, 2005, not November 23, 2005. The B delay ended on the day prior to the date on which the RCE was filed (August 7, 2007). Therefore, the B delay is 931 days, not 623 days. Applicant argues further that they "expressly requested an entry into the national stage on January 18, 2002 under 35 U.S.C. § 371(f) by submitting a transmittal letter expressly notifying the Office that the filing was "for the purpose of entering the National Stage," paying the applicable fees, and complying with the applicable requirements under 35 U.S.C. § 371(c)." The evidence presented included a copy of a transmittal letter to show that entry into the National Stage was "expressly" requested.

Applicants are advised that the transmittal filed with the application, which states ..."for the purpose of entering the National Stage," is not sufficient for treatment as a request for early examination pursuant to 35 U.S.C. § 371(f). An express request to begin national examination procedures (35 U.S.C. 371(f) at any time rather than delay examination until the expiration of the applicable time limit set in 35 U.S.C. 371 (b) and PCT Articles 22 and 39(1) was not indicated in the transmittal and as a result, examination began three years and one day after the date the national stage commenced (November 22, 20002) under 35 U.S.C. 371(f).

As such, the patent term adjustment is 605 days (458 "A delay days" + 623 "B delay days" - 476 days applicant delay) not 914 days.

As indicated in the previous decision, the Office will *sua sponte* issue a certificate of correction.

The application is being forwarded to the Certificates of 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 **six hundred five (605)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,574,372 B2

DATED : August 11, 2009

INVENTOR(S) : Frank Among

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 (464) days

Delete the phrase "by 464 days" and insert – by 605 days--

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OFFICE OF PETITIONS

CANTOR COLBURN LLP
20 Church Street
22nd Floor
Hartford CT 06103

In re Patent No. 6,488,991 :
Issue Date: December 3, 2002 :
Application No. 10/032,021 : ON PETITION
Filed: December 18, 2001 :
Attorney Docket No. **PLP0077US** :

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

This patent expired at midnight December 3, 2010, for failure to pay the 7½ 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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Paper No.

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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Mail Stop 35
FORT COLLINS CO 80528

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APR 06 2011

OFFICE OF PETITIONS

In re Application of :
Casati et al. : DECISION GRANTING PETITION
Application No. 10/032,363 :
Filed: December 21, 2001 :
Atty Docket No. 10013644-1 :

This is in response to the PETITION TO THE DIRECTOR UNDER 37 CFR §1.181 - PETITION TO WITHDRAW HOLDING OF ABANDONMENT, filed September 29, 2010.

By Notice of Abandonment mailed August 9, 2010, applicants were advised that the application was abandoned in view of the decision by the Board of Patent Appeals and Interferences (BPAI) rendered on March 16, 2010, and because the period for seeking court review of the decision had expired and there are no allowed claims. Moreover, as discussed in the Miscellaneous Communication mailed July 30, 2010, the amendment filed May 17, 2010 was not entered.

Petitioner argues that the Examiner incorrectly applied the guidelines of MPEP §1214.01(1) in refusing to enter the claim amendments submitted on May 17, 2010, or in the alternative, the Examiner incorrectly applied 37 CFR §41.50(b)(1) in refusing to allow the Applicants to correct the error under 37 CFR §1.135(c).

Petitioner's arguments have been considered, and the record reviewed in light of the relevant rules. Withdrawal of the holding of abandonment is warranted. As stated in MPEP 1214.01:

> When the Board makes a new rejection under 37 CFR 41.50(b), the appellant, as to each claim so rejected, has the option of:
> (A) reopening prosecution before the examiner by submitting an appropriate amendment and/or new evidence (37 CFR 41.50(b)(1)); or
> (B) requesting rehearing before the Board (37 CFR 41.50(b)(2)).
>
> 37 CFR 41.50(b)(1) provides that the application will be remanded to the examiner for reconsideration if the appellant submits "an appropriate amendment" of the claims rejected by the Board, "or new evidence relating to the claims so rejected, or both." ... If the appellant submits an argument without either an appropriate amendment or new evidence as to any of the claims rejected by the Board, it will be treated as a request for rehearing under 37 CFR 41.50(b)(2).

In this instance, appellant attempted to reopen prosecution by filing an amendment pursuant to 37 CFR 41.50(b)(1). The examiner determined the amendment was not appropriate and issued a Notice of Abandonment. This course of action is inconsistent with the rules, as discussed above. The Examiner is to make the determination as to whether the amendment is appropriate; however, if he determines that the amendment is not appropriate the course of action is not to issue a Notice of Abandonment, but rather to return the application file to the Board for consideration of the amendment as a request for rehearing under 37 CFR 41.50(b)(2).

Accordingly, the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 2654 has been advised of this decision. This decision calls for the withdrawal of the holding of abandonment and for consideration by the examiner of the amendment filed May 17, 2010, at least insofar as the amendment relates to the claims rejected by the BPAI pursuant to 37 CFR 41.50(b), and any other appropriate action in light of this decision.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/22/11

TO SPE OF : ART UNIT 3731

SUBJECT : Request for Certificate of Correction for Appl. No.: 10033371 Patent No.: 7044134

CofC mailroom date: 07/11/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

S. Thomas Hughes

/S. Thomas Hughes/

SPE Art Unit 3731

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)
6662379	2003-12-16	10033611	2001-12-27	FLUI-1060461

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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Under 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, Reg. No. 50184/	Date (YYYY-MM-DD)	2012-02-06
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. 6662379
Issue Date: December 16,2003
Application No. 10033611
Filed: December 27,2001
Attorney Docket No. FLUI-1060461

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROBERT K. TENDLER
65 ATLANTIC AVENUE
BOSTON MA 02110

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,266,186 :
Issued: September 4, 2007 :
Application No. 10/033,824 : ON PETITION
Filed: December 19, 2001 :
Attorney Docket No. 3052/001 :

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

The petition is **GRANTED**.

This patent expired on September 7, 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.

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
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DIW Dec-10

Paper No. 10

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

MAILED
DEC 07 2010
OFFICE OF PETITIONS

In re Patent No. 6756572	:	
Issue Date: 06/29/2004	:	
Application Number: 10/034177	:	DECISION ON PETITION
Filing Date: 12/28/2001	:	
Attorney Docket Number: 2013-3-06	:	

This is a decision on the petition under 37 CFR 1.378(b),[1] filed on September 29, 2010, to accept the delayed payment of the maintenance fee for the above-identified patent.

The petition is dismissed.

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

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

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

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

The patent issued on June 29, 2004. The first maintenance fee could have been paid during the period from June 29 through December 31, 2007, or with a surcharge during the period from January 1 through June 29, 2008. The patent expired at midnight on June 29, 2008, for failure to timely pay the first maintenance fee.

Petitioner's counsel states that patentee was informed, in a letter mailed by counsel to patentee upon issuance of the patent, that counsel would endeavor to remind patentee of due dates for maintenance fees, but that counsel could not be responsible for non-payment of the maintenance fees, and therefore recommended that patentee, itself, docket the maintenance fee payment.

Counsel further states that it (counsel) did not send a maintenance fee reminder to patentee, because counsel was believed that patentee would track and timely pay the maintenance fee without further assistance from counsel. However, counsel learned on December 14, 2009, that the patent was expired, and immediately notified patentee that the patent was expired, but that a petition under 37 CFR 1.378(c) could be filed to accept delayed payment of the maintenance fee.

Counsel further states:

> Undersigned agent became aware of the expiration of the patent on December 14, 2009, while reviewing the patent status report of the patentee prepared by docketing manager, Emily Baldwin. Thereafter, the patentee was immediately notified of the expired patents and Ms. Baldwin sent a pre-invoice for payment the maintenance fee to the patentee via email, advising that the maintenance fee can still be paid by June 29, 2010 with a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent if the pre-invoice is paid by the patentee. Undersigned agent was cc'd in the email sent to the patentee on December 17, 2009, by Ms. Baldwin. The patentee confirmed that the expiration of the patent was never intentional.
>
> On September 10, 2010, undersigned agent report an updated patent status report prepared by docketing staff, Jane Kim, to the patentee in response to the patentee's request. It is noted that Ms. Emily Baldwin

> left the firm in February 2010.In the updated patent status report to the client on September 10, 2010, the above identified patent appeared as "Expired for non-payment on: 06/29/2008." Still, undersigned agent was not aware that the delayed maintenance fee and petition fee were due June 29, 2010 and believed that the patent expired upon approval by patentee. On the same day, vice president of Orion Electronics., Inc., Mr. Sean Lee, acting as a representative of the patentee, contacted undersigned agent and indicated that the payment for the pre-invoice dated December 17, 2009, was sent to our firm early this year. Undersigned agent confirmed with the billing department of the firm that the payment was received on January 7, 2010 for invoice number 60016 dated December 17, 2009.
>
> As discussed above, the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the delayed maintenance fee would be paid timely. However, while the docketing system of the firm showed receipt of a Notice of Patent Expiration on August 4, 2008, the due date of June 29, 2010 for paying the delayed maintenance fee with a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent was not shown in the docketing record. Apparently, while Ms. Baldwin reported the due date to the patentee on December 17, 2009, she forgot to enter the due date into the docketing system. Thus, the due date never appeared on the firm's daily due date reminders. Thus, the expiration of the patent was never intentional and was unavoidable.

The Director may accept late payment of the maintenance fee if the delay is shown to the satisfaction of the Director to have been "unavoidable".[2] A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person."[3] This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."[4] Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35

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[2] 35 U.S.C. § 41(c)(1).

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

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

U.S.C. § 133.[5] Under 35 U.S.C. § 133, the Director may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Director to have been "unavoidable". Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[6] However, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[7] In view of In re Patent No. 4,409,763,[8] this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

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

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

(1) The delay in reply that originally resulted in expiration;
(2) The delay in filing an initial petition pursuant to § 1.378(b) to revive the application; and
(3) The delay in filing a *grantable* petition pursuant to § 1.378(b) to revive the application.[9]

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

With regards to item (1), petitioner has not shown that the delay that originally resulted in the expiration of the patent was unavoidable. In this case, petitioner states that counsel intended to file a petition under 37 CFR 1.378(c) within the 24-month grace period, but the petition was not filed within that

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

[6] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

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

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

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

time due to an alleged docketing error on the part of petitioner's counsel.

As such, petitioner must provide a documented showing that the **entire** period of delay, from the date the maintenance fee was due until the date a grantable petition is filed, was **unavoidable**.

With regards to item (2), petitioner's counsel states that the delay in filing the petition resulted from a docketing error. To wit, that counsel's docketing manager, Emily Baldwin, failed to enter the due date for filing the petition under 37 CFR 1.378(c) into counsel's docketing system.

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

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

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

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

An adequate showing requires:

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

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

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[10] See MPEP 711.03(c)(III)(C)(2).

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

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

At the outset, petitioner has not provided statements from all of the persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. Specifically, statements must be provided by Emily Baldwin, the person asserted to have made the error leading to the delay in filing the maintenance fee (and initial petition to accept the delayed maintenance fee), as well as any other persons with first-hand knowledge of the delay.

Additionally, petitioners have not provided sufficient evidence to lead to a conclusion that counsel had a reliable docketing system in place at the time the petition was docketed. Specifically, petitioners must focus on the error that occurred, the procedure for docketing due dates, and show that a reliable system was in place to ensure that the docketing manager properly docketed petition due dates. Still further, petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

In summary, the showing of record does not support a finding of unavoidable delay. At the outset, there is no showing that the patentee had docketed the maintenance fee for tracking in a reliable tracking system. While petitioners state that the delay on the part of the patentee was unintentional, a grantable petition under 37 CFR 1.378(b) requires a showing that the **entire** delay, from the date the maintenance fee was due until the date a grantable petition was filed, was unavoidable.

As petitioner has not shown that he 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.[11]

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[11] See note 6, supra.

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.

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

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

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

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

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

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 18 2011

OFFICE OF PETITIONS

LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES CA 90017

In re Patent No. 6,756,572 :
Issue Date: 06/29/2004 :
Application Number: 10/034,177 : DECISION ON PETITION
Filing Date: 12/28/2001 :
Attorney Docket Number: 2013-3-06 :

This is a decision on the petition, filed on February 7, 2011, under 37 CFR 1.378(e) requesting reconsideration of a prior decision which refused to accept under § 1.378(b)[1] the delayed payment of a maintenance fee for the above-referenced patent.

The petition under 37 CFR 1.378(e) is **DENIED**.[2]

BACKGROUND

The patent issued on June 29, 2004. The first maintenance fee could have been paid during the period from June 29 through December 31, 2007, or, with a surcharge during the period from January 1 through June 29, 2008. Accordingly, the patent expired at midnight on June 29, 2008, for failure to timely submit the first maintenance fee.

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

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

[2] As stated in 37 CFR 1.378(e), no further reconsideration or review of the decision refusing to accept the delayed payment of the maintenance fee under § 1.378(b) will be undertaken. This decision may be regarded as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1001.02.

The initial petition under 37 CFR 1.378(b) was filed on September 29, 2010. On December 7, 2010, the petition was dismissed.

Petitioner again asserts that the client was informed, via a letter sent to the client accompanying the original Letters Patent, that counsel would not be responsible for payment of the maintenance fees, and the letter included a recommendation that the patent owner docket the dates for payment of the maintenance fees. The maintenance fee due dates were not docketed by counsel because it was believed that the patentee would tend to the docketing of these maintenance fees.

Petitioner further states that it was discovered on December 11, 2009, by petitioner's registered patent practitioner, Harry Lee, that the patent had become expired. Counsel then contacted patentee by telephone, and the patentee verbally informed attorney Lee that patentee wished to reinstate the patent. However, due to a docketing error, the filing of the petition to reinstate the expired patent was never docketed, and thus, the filing thereof was unavoidably delayed.

In the decision dismissing the petition, petitioner was advised that a showing of unavoidable delay due to docketing error required evidence supporting such a finding. In this case, the showing required was that: (a) the error was the cause of the delay at issue; (b) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and (c) the employee(s) were sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employees represented the exercise of due care. Petitioner was further advised that the following items must be provided: (a) statements by persons with direct knowledge of the circumstances of the delay, setting forth the facts as they know them; (b) a through explanation of the docketing and call-up system in use, including, but not limited to, copies of documentation which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due, and (c) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

Petitioners have provided statements by attorney Lee and Jane Kim, a docketing assistant from 2007 to December, 2009, at

counsel's law firm. Petitioner further states that the former docketing manager, Emily Baldwin, could not be reached to obtain an affidavit or declaration of facts. Petitioner further states that Linda Chung, an employee of counsel's law firm from December 2003 to February 2011, and patent secretary from 2004-2006, and the person who sent the letter accompanying the Letters Patent to patentee, could not be reached to obtain an affidavit or declaration of facts.

STATUTE AND REGULATION

35 U.S.C. § 41(c)(1) states that:

> The Director may accept the payment of any maintenance fee required subsection (b) of this section which is made within twenty-four months after the six-month grace period if this 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.

37 CFR 1.378(b)(3) states that any petition to accept an unavoidably delayed payment of a maintenance fee must include:

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

37 CFR 1.378(c)(3)(1) 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)

OPINION

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".[3] A patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner "exercised the due care of a reasonably prudent person."[4] This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."[5] Unavoidable delay under 35 U.S.C. § 41(b) is measured by the same standard as that for reviving an abandoned application under 35 U.S.C. § 133.[6] Under 35 U.S.C. § 133, the 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.[7] However, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[8] In view of In re Patent No. 4,409,763,[9] this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

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.[10] 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.[11]

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

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[3] 35 U.S.C. § 41(c)(1).

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

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

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

[7] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887)(the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

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

[9] 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988), aff'd sub nom. Rydeen v. Quigg, 748 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

[10] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[11] Id.

petitioner has failed to carry his or her burden to establish that the delay was unavoidable.[12] 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.[13]

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

(1) The delay in reply that originally resulted in expiration;
(2) The delay in filing an initial petition pursuant to § 1.378(b) to revive the application; and
(3) The delay in filing a *grantable* petition pursuant to § 1.378(b) to revive the application.[14]

This petition lacks the showing required by period (1).

With regard to period (1), the showing of record is that the delay was not unavoidable. Counsel argues that the facts of the present case are distinguishable from *Ray v. Lehman*[15] in that the client letter, which was received, left an "ambiguity" as to whether petitioner's counsel would track the due dates for the maintenance fee, while in *Ray,* the attorney forwarded a maintenance fee reminder from the USPTO to his client, but the letter did not reach the client because it was returned as undeliverable.[16] Petitioner states that the "the error relates to the misunderstanding as to the party who is to track the maintenance fee due dates."

Petitioner's argument is that the delay was unavoidable because the "ambiguity" in the letter led patentee to rely upon counsel to track and pay the maintenance fee while counsel relied on patentee to track and pay the maintenance fee. Petitioner's point is not well taken, however, because the letter clearly states that counsel "cannot be responsible for the non-payment of maintenance fees or for the non-notification of maintenance fee due dates. Accordingly, we strongly recommend that these due

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[12] 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).

[13] 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.

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

[15] 55 F.3d 606, 609 (Fed. Cir. 1995).

[16] Id., at 607, 34 USPQ2d at 2.

dates be docketed by your office and/or the patent owner as appropriate." Clearly, the plain meaning of the language of the transmittal letter accompanying the Letters Patent indicated that counsel would **not** be responsible for docketing the due dates and that patentee should docket these due dates or risk having the patent expire for failure to timely pay the maintenance fees. The only course of action for the patentee, acting as a reasonably prudent person acting with regard to his or her most important business (*i.e.*, the maintenance in force of the subject patent) would have been to docket the due dates for the payment of the maintenance fee for the subject patent. As petitioners have provided no evidence that patentee ever docketed the due dates, the showing of record is, rather than unavoidable delay, of a lack of diligence on the part of patentee.

Further, petitioner's argument, that there was no failure of communication because petitioner's counsel did send, and the client allegedly received, the letter informing patentee that patentee should docket the maintenance fee itself, is without merit because it ignores the salient fact that the alleged "ambiguity" was in the content of the letter, rather than whether, or not, said letter was received.

Simply put, if patentee reasonably relied on counsel to docket and track the maintenance fee, but the maintenance fee was not timely paid because counsel did not in fact docket and track the maintenance fee because counsel reasonably believed it was not obligated to docket and track said maintenance fee payment, such would not be unavoidable delay, but rather a delay due to a failure of communication. Conversely, if patentee did not rely on counsel to docket and track the maintenance fee, but patentee did not docket and track the maintenance fee due dates, the showing of record would point not towards a finding of unavoidable delay, but rather towards a finding that the delay resulted from a lack of diligence on the part of patentee. A patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay.[17]

The above paragraph notwithstanding, petitioners are reminded that the failure of communication between an applicant and counsel is not unavoidable delay.[18] Specifically, delay

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

[18] In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).[19] Moreover, the Office is not the proper forum for resolving a dispute as to the effectiveness of communications between parties regarding the responsibility for paying a maintenance fee.[20]

CONCLUSION

The prior decision which refused to accept under § 1.378(b) the delayed payment of a maintenance fee for the above-identified patent has been reconsidered. For the above stated reasons, the delay in this case cannot be regarded as unavoidable within the meaning of 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(b).

Since this patent will not be reinstated, the maintenance fee(s) and surcharge fee(s) submitted by petitioner will be refunded to counsel's deposit account. The $400.00 fee for reconsideration will not be refunded.

As stated in 37 CFR 1.378(e), no further reconsideration or review of this matter will be undertaken.

The patent file is being returned to Files Repository.

Telephone inquiries should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Anthony Knight
Director, Office of Petitions

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[19] See Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1995).
[20] Id.

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WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of :
Joe Chauvin et al. :
Application No. 10/034,598 : DECISION ON PETITION
Filed: December 28, 2001 :
Attorney Docket No. 14531.125 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2010, 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 of Non-Compliant Amendment mailed August 29, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 30, 2007. A Notice of Abandonment was mailed on March 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2424 for appropriate action by the Examiner in the normal course of business on the reply received August 27, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/28/10 **Paper No.:** ———

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/234,860 Patent No.: 7609424 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: _____

11/21/10

2625

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: P-5889-US (P12522)	Patent Number: 7,668,958
Filing Date (or 371(b) or (f) Date): 10-18-2001	Issue Date: 02-23-2010
First Named Inventor: Jeremy Burr	
Title: METHOD FOR DISCOVERY AND ROUTING USING A PRIORI KNOWLEDGE IN THE FORM OF APPLICATION PROGRAMME WITHIN MOBILE AD-HOC NETWORKS	

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 /Stuart A. Whittington/	Date July 9, 2010
Name (Print/Typed) Stuart A. Whittington	Registration Number 45,215

***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.

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Approved for use through 02/28/2011. OMB 0651-0020
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
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Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **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 this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

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

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

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

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PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK, NY 10036

Mail Date: 08/26/2010

Applicant	: Jeremy Burr	: DECISION ON REQUEST FOR
Patent Number	: 7668958	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/035,463	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 10/18/2001	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1049** 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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ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street
Suite 4000
Charlotte, NC 28280-4000

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Marcus Davidsson	:	
Application No. 10/035,557	:	DECISION ON PETITION
Filed: November 7, 2001	:	TO WITHDRAW
Attorney Docket No. 042933/319585	:	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 9, 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. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Guy R. Gosnell on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 9, 2010 that requires a reply from the applicant.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Nokia Corporation**
Keilalahdentie 4
Espo, FIN-02150
Finland

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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
10/035,557	11/07/2001	Marcus Davidsson	042933/319585

CONFIRMATION NO. 3599

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

POWER OF ATTORNEY NOTICE

OC00000043389532

Date Mailed: 09/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/09/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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LERNER GREENBERG STEMER LLP
P O BOX 2480
HOLLYWOOD, FL 33022-2480

Mail Date: 10/07/2010

Applicant	: Klaus Blinn	: DECISION ON REQUEST FOR
Patent Number	: 6823777	: RECALCULATION of PATENT
Issue Date	: 11/30/2004	: TERM ADJUSTMENT IN VIEW
Application No	: 10/036,254	: OF WYETH
Filed	: 10/22/2001	:
		:

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.

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OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

Patent No. 7,092,953 :
Application No. 10/036,298 :
Filed: December 28, 2001 : ON PETITION
Issued: August 15, 2006 :
Attorney Docket No. RIGHTLN.002A :

This is a decision on the petition under 37 CFR 1.378(c), filed August 23, 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** final agency action within the meaning of 5 U.S.C. § 704.

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

This petition lacks none of the above-listed items. However, the petition must be signed by:

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

The person who signed the instant petition does not appear to be any of the above.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(h). The petition for reconsideration must include the lacking item(s) noted above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

Petitioner should note that if this petition is not renewed, or if renewed and not granted, then the maintenance fees and post expiration surcharge are refundable. Petitioner may request a refund of the fees submitted on August 23, 2010. Please send all requests for refunds to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

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

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

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

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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SPRINKLE IP LAW GROUP
1301 W. 25TH STREET
SUITE 408
AUSTIN TX 78705

MAILED

FEB 04 2011

OFFICE OF PETITIONS

Patent No. 7,092,953	:	
Application No. 10/036,298	:	
Filed: December 28, 2001	:	ON PETITION
Issued: August 15, 2006	:	
Attorney Docket No. RIGHT1100	:	

This is a decision on the renewed petition under 37 CFR 1.378(c), filed November 30, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued August 15, 2006. The last day of the grace period for paying the 3.5-year maintenance fee was August 15, 2010. Therefore, since this petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), this petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

Petitioner submitted $2620.00 with the renewed petition. However, as the $490.00 maintenance fee and the $1640.00 surcharge were both submitted previously on August 24, 2010, only the $400.00 reconsideration fee was necessary. Accordingly, $2220.00 will be credited to petitioner's deposit account, 50-3183, as authorized.

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

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)
7053756	2006-05-30	10/036,914	2001-12-21	CRNT-0022-US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

◉ The assignee of record of the entire interest

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.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/Andrew Rosenstein/	Date (YYYY-MM-DD)	2012-02-06
Name	Andrew Rosenstein		
Enter Reel and Frame Number		Remove	
Reel Number	012815	Frame Number	0162
Enter Reel and Frame Number		Remove	
Reel Number	020518	Frame Number	0001
Enter Reel and Frame Number		Remove	
Reel Number	021096	Frame Number	0131
Click ADD for additional Reel Number and Frame Number		Add	

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

Privacy Act Statement

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UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7053756
Issue Date: May 30,2006
Application No. 10036914
Filed: December 21,2001
Attorney Docket No. CRNT-0022

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

This is a decision on the electronic petition, filed February 6,2012 ,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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7086667
Issue Date: August 8,2006
Application No. 10036934
Filed: November 13,2001
Attorney Docket No. P23583

:
: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 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 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)
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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)
7,086,667	2006-08-08	10/036,934	2001-11-13	M10001US

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Taeksoo Lee/	Date (YYYY-MM-DD)	2011-09-28
Name	Taeksoo Lee	Registration Number	61976

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

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

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120118

DATE : October 04, 2011

TO SPE OF : ART UNIT 2116

SUBJECT : Request for Certificate of Correction on Patent No.: 10/037,208

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:

No new matter or change in scope/meaning of claims.

/KIM HUYNH/
Supervisory Patent Examiner.Art Unit 2116

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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OFFICE OF PETITIONS

MILLER PATENT SERVICES
2500 DOCKERY LANE
RALEIGH NC 27606

In re Patent No. 7,336,787
Issued: February 26, 2008
Application No. 10/038,217
Filed: January 2, 2002
Attorney Docket No.: SNY-R4646.01

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "PETITION TO CORRECT PATENT TERM ADJUSTMENT," filed February 16, 2010, requesting suspension of the time limit for consideration of an application for patent term adjustment ("PTA"). The response is properly treated as a request for reconsideration of petition under 37 CFR 1.183.

This petition is hereby **DISMISSED**.

The petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,336,787 is dismissed as untimely. On February 1, 2010, the USPTO published a Federal Register notice that, *inter alia*, announced a limited waiver of the two-month deadline for filing a petition for reconsideration of a PTA determination under 37 CFR sec. 1.705(d). *See Interim Procedure for Patentees to Request a Recalculation of the Patent Term Adjustment to Comply with the Federal Circuit Decision in Wyeth v. Kappos Regarding Overlapping Delay Provisions of 35 U.S.C. sec. 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010) (notice).

Specifically, patent owners were permitted to request recalculation of a patent's PTA in view of the Federal Circuit decision Wyeth v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010) up to 180 days after the grant of the patent. The USPTO determined not to accept any requests for PTA recalculation initially filed more than 180 days after patent grant, however, in view of the statutory judicial-review provisions of 35 U.S.C. sec. 154(b)(4), which require that any civil action to challenge the USPTO's PTA determination be brought within 180 days of patent grant. The USPTO believes that the statutory 180-day period for seeking court review of the USPTO's PTA determinations, particularly in view of the six-year statute of limitations that otherwise is applicable for actions under the Administrative Procedure Act, indicates a congressional intent that PTA issues be resolved shortly after a patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period to seek initial USPTO review

of a PTA determination extends beyond the time period provided for a dissatisfied patentee to seek judicial review of the USPTO's PTA determination. Thus, the USPTO believes that the 180-day period in 35 U.S.C. sec. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

Instead of a patent term adjustment petition, applicants filed a "Request for Certificate of Correction" to correct the patent term. The request filed April 7, 2008 cannot be construed as a petition under 37 CFR 1.705(d) and the instant petition requesting a corrected patent term adjustment is not timely filed. As such, the petition is dismissed and the certificate of correction which issued February 2, 2010 was issued in error. In view thereof, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 1142 days.

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 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 one hundred forty-two (1142)** days.

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,336,787 B2

DATED : February 26, 2008

INVENTOR(S) : Robert Allan Unger

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 (1189) days

Delete the phrase "by 1189 days" and insert – by 1142 days--

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)
7035220	2006-04-25	10038329	2001-10-22	112057-0001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

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

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

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

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○ A sole patentee

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

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

○ The assignee of record of the entire interest

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-19
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.**

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In re Patent No. 7035220
Issue Date: April 25,2006
Application No. 10038329
Filed: October 22,2001
Attorney Docket No. 112057-0001

:
: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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110927

DATE : September 27, 2011

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction on Patent No.: 7111105

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:

Request filed on 08/08/2011 is approved.

/MARK RINEHART/
Supervisory Patent Examiner.Art Unit 2111

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KNOBBE MARTENS OLSON & BEAR, LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,695,791
Issue Date: February 24, 2004
Application No. 10/039,104
Filed: January 4, 2002
Patentee(s): Hugo X. Gonzalez

NOTICE

This is in response to the "NOTIFICATION OF LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS" filed August 24, 2011[1].

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

This patented file is being referred to Files Repository.

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

Andrea Smith
Petitions Examiner
Office of Petitions

[1] The communication is properly treated as a request under 37 CFR 1.28(g)(2).

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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FINNEGAN HENDERSON FARABOW GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re :
Patent No. 7,124,317 : DECISION ON PETITION
Issued: October 17, 2006 :
Application No. 10/039,316 :
Filed: October 19, 2001 :

This is a decision on the petition under 37 CFR 1.182, filed April 19, 2010, for an additional Letters Patent.

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

The Publishing Division is directed to issue a duplicate Letters Patent, as well as an Issue Notification.

Any questions concerning this decision may be directed to the undersigned at (571)272-3207. Any questions concerning issuance of the duplicate Letters Patent should be directed to Ollie Person at (703)756-1555.

A copy of this decision is being forwarded to the Publishing Division for issuance of a duplicate Letters patent.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Ollie Person, P/OPPD (FAX 571-270-9764)
Kimberly Terrell, P/OPPD (FAX 571-270-9958)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

MAILED

NOV 1 0 2010

OFFICE OF PETITIONS

In re Application	:	
Billock et al.	:	DECISION ON PETITION
Application No. 10/039,855	:	TO WITHDRAW
Filed: October 19, 2001	:	FROM RECORD
Attorney Docket No. 11664-0004-999	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 2010.

The request is **DISMISSED**.

A review of the file record indicates that Jones Day was not appointed power of attorney in this patent application and therefore, was only designated as the correspondence address of record. As a result, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF DUANE S. KOBAYASHI
P.O. BOX 4160
LEESBURG, VA 20177

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,379,981
Issue Date: May 27, 2008
Application No. 10/040,150
Filed: January 2, 2002
Attorney Docket No. MESH.0020000

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: and
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition filed August 24, 2010, under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of prior-filed non-provisional applications, and under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications, filed by way of a certificate of correction filed concurrently herewith.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(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 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.

Application no. 10/040,150 which was filed after November 29, 2000, matured into Patent No. 7,379,981 on May 27, 2008. The claim for the benefit of priority to a prior-filed nonprovisional application was submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3). However, the petition does not comply with item (1).
In reviewing the chain of applications to which applicant is seeking a claim for priority, it

is noted that the present nonprovisional application claiming the benefit of the prior-filed provisional applications was not filed within twelve months of the filing date of the prior-filed provisional applications.

Application Nos. 60/179,046 and 60/179,041 were both filed January 31,2000, and expired on the twelve-month anniversary of this date (January 31, 2001), pursuant to 35 U.S.C. §111(b)(5). The present application was not filed until January 2, 2002, which is subsequent to the expiration of the provisional application, to which priority is claimed.

35 U.S.C. §119 permits a non-provisional application to claim the benefit of the filing date of a previously filed, provisional application provided there is inventorship overlap between the continuing application and the parent application. Here, the applications for which the benefit is sought, 60/179,046 and 60/179,041, were filed more than one year before the present application was filed. As such, there is no copendency between the applications. As set forth in 35 U.S.C. §119(b)(e):

> **An application for patent filed under** section 111(a) **or** section 363 **of this title for an invention disclosed in the manner provided by the first paragraph of** section 112 **of this title in a provisional application filed under** section 111(b) **of this title, by an inventor or inventors named in the provisional application, shall have the same effect, as to such invention, as though filed on the date of the provisional application filed under** section 111(b) **of this title, if the application for patent filed under** section 111(a) **or** section 363 **of this title is filed not later than 12 months after the date on which the provisional application was filed (emphasis added) and if it contains or is amended to contain a specific reference to the provisional application.**

Before a petition can be granted in the present application, petitioner must file a renewed petition titled under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6), accompanied by a certificate of correction with the benefit of provisional application nos. 60/179,046 and 60/179,041 being claimed through non-provisional application no. 09/774,121.

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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Chris Bottorff
Supervisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/02/10

TO SPE OF : ART UNIT 2451

SUBJECT : Request for Certificate of Correction for Appl. No.: 10040150 Patent No.: 7379981

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

/John Follansbee/ SPE 2451

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)
7,010,970	2006-03-14	10/040,751	2002-01-08	AERO-10

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michele L. Mayberry/	Date (YYYY-MM-DD)	2011-10-28
Name	Michele L. Mayberry	Registration Number	45644

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7010970
Issue Date: March 14,2006
Application No. 10040751
Filed: January 8,2002
Attorney Docket No. T1

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

This is a decision on the electronic petition, filed November 7,2011 ,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 November 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.

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)
6602526	2003-08-05	10041313	2002-01-07	125693.0006

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required 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. Pershes/	Date (YYYY-MM-DD)	2012-01-17
Name	Robert E. Pershes	Registration Number	38201

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6602526
Issue Date: August 5,2003
Application No. 10041313
Filed: January 7,2002
Attorney Docket No. M22982-077723

:
: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
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MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of :
Sharpe, et al. :
Application No. 10/041,329 : DECISION
Filed/Deposited: 3 January, 2002 :
Attorney Docket No. GB920010008US1 :

This is a decision on the petition filed on 20 December, 2010, considered as a petition pursuant to 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition pursuant to 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. §1.181."

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

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing requirements for relief pursuant to 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Non-Compliant Brief mailed on 22 September, 2009, with reply due absent extension of time on or before 22 October, 2009.

The application went abandoned by operation of law after midnight 22 October, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 20 December, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred that he was unaware of the status of the matter, *inter alia*, and further failed to follow and satisfy the guidance in the Commentary at MPEP §711.03(c)(I).

Thus, Petitioner has not completed the showing as discussed below in the citation from the Manual of Patent Examining Procedure (MPEP).

Petitioner is directed to the appropriate guidance (MPEP §711.03(c)(I)), and requested to comply with it.

With regard to Petitioner's request to withdraw the holding of abandonment pursuant to 37 C.F.R. §1.181, the guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to non-receipt:

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> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office

> action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]
>
> ***

The guidance in the Commentary at MPEP §711.03(c)(I) also provides in pertinent part as to timely reply:

> ***
>
> 37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.
>
> Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.
>
> Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to

[1] *See*: MPEP §711.03(c) (I)(A).

have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [2]

***

If Petitioner is unable to comply with and/or otherwise satisfy these requirements, Petitioner may wish to revive the application: Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office **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.[3]

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.

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[2] *See*: MPEP §711.03(c) (I)(B).

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

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.[4],[5]

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.[6]

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

[5] 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.))

[6] 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).

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate 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 was unintentional." (The statement is in the form available online.)
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[7]) 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

[7] 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

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RESEARCH TRIANGLE PARK NC 27709

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Application of :
Sharpe, et al. :
Application No. 10/041,329 : DECISION
Filed/Deposited: 3 January, 2002 :
Attorney Docket No. GB920010008US1 :

This is a decision on the petition filed on 8 April, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition pursuant to 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 Notice of Non-Compliant Brief mailed on 22 September, 2009, with reply due absent extension of time on or before 22 October, 2009.

The application went abandoned by operation of law after midnight 22 October, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 20 December, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181 and averred that he was unaware of the status of the matter, *inter alia*, and failed to follow and satisfy the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 9 February, 2011.

The Office mailed the Notice of Abandonment on 23 March, 2011.

On 8 April, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay and a reply in the form of a response to the Notice of Non-Compliant Brief.

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.

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 3691 for further processing (*inter alia*, the Examiner's Answer) 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.

[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.

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

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

In re Patent No. 6939860
Issue Date: September 6,2005
Application No. 10041427
Filed: January 8,2002
Attorney Docket No. 11957/16

:
: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.

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)
6939860	2005-09-06	10/041,427	2002-01-08	RIPLLC018.011US1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Geeta Kadambi/	Date (YYYY-MM-DD)	2011-06-19
Name	GEETA KADAMBI	Registration Number	64446

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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)
7145864	2006-12-05	10041505	2002-01-10	250135-1680

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

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

Small Entity

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required 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 R. McClure/	Date (YYYY-MM-DD)	2011-03-02
Name	Daniel R. McClure	Registration Number	38962

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7145864
Issue Date: December 5,2006
Application No. 10041505
Filed: January 10,2002
Attorney Docket No. 0941-0396P-SP

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

This is a decision on the electronic petition, filed March 2,2011 ,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 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.

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.
10/042,371	12/27/2001	Andrew C. Gilbert	01-1046	6761

63710 7590 08/05/2011

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

EXAMINER	
ONYEZIA, CHUKS N	

ART UNIT	PAPER NUMBER
3691	

NOTIFICATION DATE	DELIVERY MODE
08/05/2011	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):

patentdocketing@cantor.com
dpostolski@cantor.com
lalto@cantor.com

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte ANDREW C. GILBERT and MARY ANN GILBERT

Appeal 2010-012127
Application 10 /042,371
Technology Center 3600

DECISION ON PETITION

This is a decision on the Petition filed August 23, 2010 (hereinafter "2010 Petition"). The 2010 Petition requests a two-month extension of time to file a either a Reply Brief and a Request for Oral Hearing, or a request for oral hearing in response to the Examiner's Answer mailed June 9, 2010.

FINDINGS

1) On February 19, 2008, Appellants' original counsel, Ropes & Gray, filed a Request for Withdrawal as Attorney of Record.

2) The Request for Withdrawal indicated that all future correspondence should be sent to the address associated with Customer Number 63710. Customer Number 63710 is the Customer Number for the law firm of Cantor and Fitzgerald.

3) The Request for Withdrawal as Attorney of Record was granted on October 1, 2008.

4) The mailing address, however, was not changed to the mailing address set forth on the Request for Withdrawal, namely, that of Cantor and Fitzgerald. Instead, it was changed, incorrectly, to the inventors' address.

5) On December 27, 2009, Appellants filed their Appeal Brief. The Appeal Brief was filed by Mr. Glen R. Farbanish, an attorney at the law firm Cantor and Fitzgerald.

6) On June 9, 2010, the Examiner mailed the Answer to the inventors' address, and not to Mr. Farbanish of Cantor and Fitzgerald.

7) On August 23, 2010, Mr. Farbanish filed the current Petition.

8) On September 21, 2010, the Board of Patent Appeals and Interferences mailed a Docketing Notice.

9) On October, 8, 2010, Mr. Farbanish, having not received a decision on this Petition, filed a Request for Oral Hearing.

10) Page 1 of the Petition states:

> [T]he undersigned filed an Appeal Brief on December 29, 2009. An Examiner's Answer to the Appeal Brief was mailed on June 9, 2010. Accordingly, August 9, 2010 was the two-month response date for submitting a Reply Brief and Request for Oral Hearing.
>
> The Examiner's Answer was mailed to the legal representative of the inventor, and not to the attention of the undersigned. As a result, the undersigned inadvertently was not aware that the Examiner's Answer was mailed and in particular, did not become aware of the Examiner's Answer until August 10, 2010 (i.e., one day after the two-month response date).

11) Page 1 of the Petition further states:

> Appellant requests that the time to submit a Reply Brief and a Request for Oral Hearing be extended by two months to October 9, 2010. In the alternative, Appellant requests that the time to submit a Request for Oral Hearing be extended.

DISCUSSION

Appellants' counsel has established that good cause for an extension of time exists, and having proceeded to request an Oral hearing without also filing a Reply Brief prior to the end of the requested period of extension, Appellants' request to file the Request for Oral Hearing is **granted**.

DECISION

In view of the foregoing, the Petition to extend the time to file a Request for the filing of a Request for Oral Hearing is GRANTED, and the Request for Oral Hearing is GRANTED.

James Donald Smith
Chief Administrative Patent Judge

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 13 2010

OFFICE OF PETITIONS

MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

In re Application of :
Sackstein :
Application No. 10/042,421 :
Filed: October 18, 2001 :
For: HEMATOPOIETIC CELL E- :
SELECTIN / L-SELECTIN LIGAND :
GLYCOSYLATED CD44 POLYPEPTIDE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR ADJUSTMENT OF PATENT TERM UNDER 37 C.F.R. §1.705(b)", filed November 5, 2010. Applicant requests that the determination of patent term adjustment be corrected. Applicant disputes the 108 day reduction and the 61 day adjustment.

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).

The application for patent term adjustment is **GRANTED** to the extent indicated.

Applicant disputes the 108 day reduction for the submission of the information disclosure (IDS) on June 8, 2009. Applicant contends the IDS was submitted with the request for continued examination (RCE). Thus a reduction is not required.

A review shows that the 108 day reduction for the submission of the information disclosure statements on June 8, 2009 was not warranted. 37 CFR §1.704(c)(8) provides that a period of reduction is entered for:

> 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 the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (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, 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 initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, the IDS submitted on June 8, 2009 was submitted with the RCE also submitted on June 8, 2009. Thus, the submission of the IDS does not constitute a failure to engage in reasonable efforts to conclude prosecution. Accordingly, the 108 day reduction will be removed.

However, further review of the record shows that a reduction of 59 days is warranted for the submission of the supplemental reply in the form of a declaration pursuant to 37 CFR 1.132 filed on August 6, 2009, after the submission of the RCE on June 8, 2009. The 59 days is calculated beginning on June 9, 2009 the day after the date the initial reply was filed and ends on August 6, 2009, the date the supplemental reply was submitted. Accordingly, the 59 day reduction is required.

In addition, review of the record confirms that the 61 day adjustment is not required. The adjustment of 61 days is being removed as a compliant appeal brief was not filed. The appeal brief filed on February 20, 2009 was deemed to be non-compliant. The period of adjustment is equal to the number of days, if any, in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with § 41.37 of this title was filed and ending on the date of mailing of any of an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first. Thus, the mailing of the non-final Office action on August 20, 2009 does not warrant an adjustment.

Applicant's delay prior to the mailing of the Notice of Allowance is 681 (96 + 92 + 95 + 90 + 34 + 32 + 59 + 183) days.

Office delay prior to the mailing of the Notice of Allowance is 405 (336 + 69) days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10042421 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10042421

Application Filing Date	10/18/2001	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	466
A Delays	466	PTO Manual Adjustment	110
B Delays	0	Applicant Delay (APPL)	730
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
146	12/12/2010		P028	Adjustment of PTA Calculation by PTO	61		0
145	12/12/2010		P028	Adjustment of PTA Calculation by PTO		59	0
144	12/12/2010		P028	Adjustment of PTA Calculation by PTO	108		0
127	08/05/2010	05/28/2010	MN/=	Mail Notice of Allowance	69		111
126	08/03/2010		IREV	Issue Revision Completed			0
125	08/03/2010		DVER	Document Verification			0
124	08/03/2010		N/=.	Notice of Allowance Data Verification Completed			0
123	08/03/2010		EX.A	Examiner's Amendment Communication			0
122	08/02/2010		CNTA	Notice of Allowability			0
115	07/31/2010		FWDX	Date Forwarded to Examiner			0
114	07/30/2010	01/28/2010	SA..	Supplemental Response		183	111
113	01/30/2010		FWDX	Date Forwarded to Examiner			0
110	01/30/2010		ABN9	Disposal for a RCE / CPA / R129			0
112	01/28/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
109	01/28/2010		BRCE	Workflow - Request for RCE - Begin			0
108	01/26/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
107	01/19/2010		XT/G	Request for Extension of Time - Granted			0
106	12/01/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
105	10/20/2009		MAPCP	Mail Appeals conf. Proceed to BPAI			0
104	10/20/2009		APCP	Pre-Appeals Conference Decision - Proceed to BPAI			0
103	08/26/2009		C602	Oath or Declaration Filed (Including Supplemental)			0
102	08/26/2009		AP.C	Request for Pre-Appeal Conference Filed			0
101	08/26/2009		N/AP	Notice of Appeal Filed			0
100	08/20/2009	06/20/2009	MCTNF	Mail Non-Final Rejection	61		86
99	08/17/2009		CTNF	Non-Final Rejection			0
96	06/10/2009		FWDX	Date Forwarded to Examiner			0
94	06/10/2009		FWDX	Date Forwarded to Examiner			0
92	06/10/2009		ABN9	Disposal for a RCE / CPA / R129			0
98	06/08/2009		IDSC	Information Disclosure Statement considered			0
97	06/08/2009	02/20/2009	EIDS.	Electronic Information Disclosure Statement		108	86
95	06/08/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
91	06/08/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
90	06/08/2009		BRCE	Workflow - Request for RCE - Begin			0
89	05/28/2009		APBD	Notice -- Defective Appeal Brief			0
88	03/12/2009		APBR	Appeal Brief Review Complete			0
87	03/12/2009		FWDX	Date Forwarded to Examiner			0
86.1	02/20/2009		APBI	Defective / Incomplete Appeal Brief Filed			0
86	02/20/2009		AP.B	Appeal Brief Filed			0
85	02/20/2009		XT/G	Request for Extension of Time - Granted			0
84	01/09/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
83	01/08/2009		CTAV	Advisory Action (PTOL-303)			0
82	12/30/2008		FWDX	Date Forwarded to Examiner			0
81	11/24/2008		AP/A	Amendment/Argument after Notice of Appeal			0
80	09/22/2008	08/21/2008	N/AP	Notice of Appeal Filed		32	78
79	09/22/2008		XT/G	Request for Extension of Time - Granted			0
78	05/21/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
77	05/20/2008		CTFR	Final Rejection			0
76	03/12/2008		FWDX	Date Forwarded to Examiner			0
75	01/31/2008	12/28/2007	A...	Response after Non-Final Action		34	71
74	01/31/2008		XT/G	Request for Extension of Time - Granted			0
73	11/16/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
72	11/13/2007		C.AD	Correspondence Address Change			0
71	09/28/2007		MCTNF	Mail Non-Final Rejection			0
70	09/26/2007		CTNF	Non-Final Rejection			0
67	07/17/2007		FWDX	Date Forwarded to Examiner			0
65	07/17/2007		FWDX	Date Forwarded to Examiner			0
63	07/17/2007		ABN9	Disposal for a RCE / CPA / R129			0
68	07/10/2007		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
66	07/10/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
62	07/10/2007		XT/G	Request for Extension of Time - Granted			0
61	07/10/2007		BRCE	Workflow - Request for RCE - Begin			0
60	03/07/2007	12/07/2006	N/AP	Notice of Appeal Filed		90	57
59	03/07/2007		XT/G	Request for Extension of Time - Granted			0
69	03/02/2007		IDSC	Information Disclosure Statement considered			0
58.7	03/02/2007		M844	Information Disclosure Statement (IDS) Filed			0
58	03/02/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
57	09/07/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
56	09/05/2006		CTFR	Final Rejection			0
55	06/23/2006		FWDX	Date Forwarded to Examiner			0
54	06/19/2006	03/16/2006	A...	Response after Non-Final Action		95	51
53	06/19/2006		XT/G	Request for Extension of Time - Granted			0
51	12/16/2005		MCTNF	Mail Non-Final Rejection			0
50	12/12/2005		CTNF	Non-Final Rejection			0
47	12/02/2005		FWDX	Date Forwarded to Examiner			0
45	12/02/2005		ABN9	Disposal for a RCE / CPA / R129			0
49	11/25/2005		IDSC	Information Disclosure Statement considered			0
48.7	11/25/2005	11/25/2005	M844	Information Disclosure Statement (IDS) Filed			46
48	11/25/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
44	11/25/2005		XT/G	Request for Extension of Time - Granted			0
43	11/25/2005		BRCE	Workflow - Request for RCE - Begin			0
42	08/31/2005		MCTAV	Mail Advisory Action (PTOL - 303)			0
41	08/30/2005		CTAV	Advisory Action (PTOL-303)			0
40	08/01/2005		FWDX	Date Forwarded to Examiner			0
39	07/27/2005		AP/A	Amendment/Argument after Notice of Appeal			0
38	07/27/2005	04/26/2005	N/AP	Notice of Appeal Filed		92	36
37	07/27/2005		XT/G	Request for Extension of Time - Granted			0
36	01/26/2005		MCTFR	Mail Final Rejection (PTOL - 326)			0
35	01/24/2005		CTFR	Final Rejection			0

34	01/24/2005		MNRAB	Mail Notice of Rescinded Abandonment			0
32	10/12/2004		FWDX	Date Forwarded to Examiner			0
29	10/12/2004		NRAB	Notice of Rescinded Abandonment in TCs			0
27	09/30/2004		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
26	09/28/2004		ABN2	Aband. for Failure to Respond to O. A.			0
33.7	09/27/2004	09/27/2004	M844	Information Disclosure Statement (IDS) Filed			31
33	09/27/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
31	09/27/2004	06/23/2004	A...	Response after Non-Final Action		26	25
30	09/27/2004		XT/G	Request for Extension of Time - Granted			0
28	09/27/2004		WAMD	Workflow incoming amendment IFW			0
25	03/23/2004		MCTNF	Mail Non-Final Rejection			0
24	03/22/2004		CTNF	Non-Final Rejection			0
23	02/05/2004		FWDX	Date Forwarded to Examiner			0
22	01/22/2004		ELC.	Response to Election / Restriction Filed			0
21	01/22/2004		XT/G	Request for Extension of Time - Granted			0
20	12/08/2003		RCAP	Reference capture on IDS			0
19.7	12/08/2003		M844	Information Disclosure Statement (IDS) Filed			0
19	12/08/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
18	11/25/2003		C.AD	Correspondence Address Change			0
17	11/25/2003		PA..	Change in Power of Attorney (May Include Associate POA)			0
16	11/19/2003	12/10/2003	MCTRS	Mail Restriction Requirement	235		-1
15	11/17/2003		CTRS	Requirement for Restriction / Election			0
14	08/09/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	07/10/2003		DOCK	Case Docketed to Examiner in GAU			0
12	09/04/2002		NC16	X-Pre-Legal Complete New Case			0
11	08/25/2002		L130	Receipt of all Acknowledgement Letters			0
10	08/16/2002		DOCK	Case Docketed to Examiner in GAU			0
9	06/27/2002		OIPE	Application Dispatched from OIPE			0
8	06/26/2002		COMP	Application Is Now Complete			0
7	06/06/2002		ADDFLFEE	Additional Application Filing Fees			0
6	06/06/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	03/07/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
4	02/22/2002		L196	Referred by L&R for Third-Level Security Review. Agency Referral Letter Generated			0
3	02/07/2002		SCAN	IFW Scan & PACR Auto Security Review			0
2	01/24/2002		SCAN	IFW Scan & PACR Auto Security Review			0
1	10/18/2001		IEXX	Initial Exam Team nn			0

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P.O. Box 1450
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In re Patent No. 6644843
Issue Date: November 11,2003
Application No. 10042622
Filed: January 9,2002
Attorney Docket No. GEMMY - INFLATABLE

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

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

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)
6,644,843	2003-11-11	10/042,622	2002-01-09	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/James D. Petruzzi Reg. 35,644/	Date (YYYY-MM-DD)	2012-01-11
Name	James D. Petruzzi	Registration Number	35644

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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 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.
10/042,658	08 January, 2002	STANZ ET AL.	021756-024600US

		EXAMINER	
Kilpatrick Townsend & Stockton LLP/Oracle Two Embarcadero Center 8th Floor San Francisco, CA 94111-3834		RICHEMOND DORVIL	
		ART UNIT	PAPER
		2626	20120409

DATE MAILED:

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

Commissioner for Patents

	Richemond Dorvil SPE Art Unit: 2626

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : May 17, 2010

TO SPE OF : ART UNIT 2626
SUBJECT : Request for Certificate of Correction for Appl. No/1042658/ patent 7536294

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.

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

Comments: _____

/Richemond Dorvil/ — **SPE**

2626 — **Art Unit**

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United States Patent and Trademark Office
P.O. Box 1450
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Robert D. Shedd, Patent Operations
THOMSON Licensing LLC
P.O. Box 5312
Princeton NJ 08543-5312

MAILED
DEC 13 2011
OFFICE OF PETITIONS

In re Application of

Bentolila, et al.

Application No. 10/043,698

Filed: January 9, 2002

DECISION ON PETITION

Attorney Docket No. **MNI020001**

This is a decision on the petition under 37 CFR 1.137(b), filed November 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper response to the Notice of Allowance and Issue Fee Due mailed April 5, 2011. The notice set a statutory period for reply of three months from its mailing date. A proper response was received, and the application became abandoned on July 6, 2011. A Notice of Abandonment was mailed November 16, 2011.

The Request for Continued Examination filed November 22, 2011, is noted.

The Information Disclosure Statement submission required by 37 CFR 1.114 filed July 26, 2011, is also noted.

The address cited on the petition differs from the address of record. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application file is being forwarded to Technology Center 2400, GAU 2424 for further processing.

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

Cc:
Joel M. Fogelson
Two Independence Way, Suite 200
Princeton, NJ 08540

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CISLO & THOMAS LLP
1333 2ND STREET
SUITE #500
SANTA MONICA CA 90401-4110

MAILED
DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 6,625,818 :
Issued: September 30, 2003 :
Application No. 10/045,727 : NOTICE
Filed: January 11, 2002 :
Attorney Docket No. 01-9923 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 17, 2011.

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

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

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

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

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

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
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OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

MAILED

AUG 08 2011

OFFICE OF PETITIONS

In re Patent No. 6,654,519 :
Issue Date: November 25, 2003 :
Application No. 10/045,788 : NOTICE
Filed: January 11, 2002 :
Attorney Docket No. P/1336-158 :

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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MAR 10 2011

OFFICE OF PETITIONS

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application
Hisashi Yamada et al.
Application No. 10/046,739
Filed: January 17, 2002
Attorney Docket No. **3885-0102P**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(b) filed May 7, 2010. Applicant requests that the determination of patent term adjustment be corrected from 1443 days to 2552 days.

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term 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.

With respect to the over 3 year calculation, 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.

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **DISMISSED**.

On March 15, 2010, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicant was advised that the patent term adjustment to date is 1443 days.

In response, applicant timely filed the instant request for reconsideration of the patent term adjustment along with payment of the fee set forth in 37 C.F.R. § 1.18(e). Applicant requests that the patent term adjustment be corrected to 2552 days.

Applicant contends that the patent term adjustment for Examination delay should be increased for the failure of the USPTO to provide an Office Action in the present application. Specifically, applicant contends that in connection with an erroneous Notice of Abandonment mailed on July 28, 2003, for which a Petition to Withdraw the Holding of Abandonment was submitted on August 20, 2003, Applicant should be entitled to PTA for all of the days from 14 months from filing the present application, namely, March 17, 2003; until the first Office Action issued on October 28, 2009.

Applicant further states that the patent issuing from the application is not subject to a terminal disclaimer.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 154(b)(1)(A)(i) (I) provides for patent term adjustment:

— 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—

(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 —

(I) the date on which an application was filed under section 111(a)of this title;

37 C.F.R. § 1.702 provides that:

(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:

(1) Mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 in an international application;

37 CFR § 1.703 provides, in pertinent part, that:

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

OPINION

The application history has been reviewed and it has been determined that the initial patent term adjustment of 1443 days is correct. The Office mailed a Restriction Requirement, the first Office Action, on November 20, 2002, within fourteen months of the date after the date on which the application was filed , January 17, 2002. Accordingly, this led to no increase in the period of adjustment.

In this case, the mailing of the Decisions on Petition granting the applicants' Petitions to Withdraw the Holding of Abandonment for failure to receive the Restriction Requirements, does not alter the date used in calculation of the period of adjustment. The record reveals the Office Actions were mailed to the correspondence address of record. The record does not support a conclusion that the Notice was "incorrectly" mailed by the Office. Rather, the record indicates that the properly addressed Office Action was not received. It has not been shown that the failure to receive was due to any error on the part of the Office in mailing the first Restriction Requirement. Thus, the mailing of the non-Final Office Action on October 28, 2009 is not the first Office Action mailed within the meaning of 35 U.S.C. 154(b).

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 the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 747
FALLS CHURCH VA 22040-0747

MAILED

AUG 23 2011

OFFICE OF PETITIONS

In re Patent No. 7,923,752
Issued: April 12, 2011
Application No. 10/046,739
Filed: January 17, 2002
Attorney Docket No. **3885-0102P**

: DECISION ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d) filed April 8, 2011. Applicant requests that the determination of patent term adjustment be corrected from 2276 days to 2948 days.

The request for review of the patent term adjustment is **DISMISSED.**

On April 12, 2011, the above-identified application matured into U.S. Patent No. 7,923,752 with a revised patent term adjustment of 2276 days. On May 7, 2010, a timely submitted application under 37 CFR §1.705(d) for patent term adjustment (with required fee), asserted that the correct number of days of Patent Term Adjustment was 2552 days. The PTA applicant argued that the patent term adjustment for Examination delay should be increased for the failure of the USPTO to provide an Office Action in the present application. Specifically, applicant contended that in connection with an erroneous Notice of Abandonment mailed on July 28, 2003, for which a Petition to Withdraw the Holding of Abandonment was submitted on August 20, 2003, Applicant should be entitled to PTA for all of the days from 14 months from filing the present application, namely, January 17, 2002; until the first Office Action issued on October 28, 2009.

Applicant's argument was considered but not found to be persuasive because it was determined that the Office mailed a Restriction Requirement, the first Office Action, on November 20, 2002, within fourteen months of the date after the date on which the application was filed, January 17, 2002. Accordingly, this led to no increase in the period of adjustment. In this case, the mailing of the Decisions on Petition granting the applicants' Petitions to Withdraw the Holding of Abandonment for failure to receive the Restriction Requirements, does not alter the date used in calculation of the period of adjustment. The record reveals the Office Actions were mailed to the correspondence address of record. The record does not support a conclusion that the Notice was "incorrectly" mailed by the Office. Rather, the record indicates that the properly addressed Office Action was not received. It has not been shown that the failure to

receive was due to any error on the part of the Office in mailing the first Restriction Requirement. Thus, the mailing of the non-Final Office Action on October 28, 2009 is not the first Office Action mailed within the meaning of 35 U.S.C. 154(b).

Patentee hereby reiterates that Applicant received a first non-final Office Action mailed on October 28, 2009 as, per the July 22, 2004 decision on petition withdrawing the holding of abandonment, the mailing of the restriction requirement was not upheld and therefore did not require a response from the applicant. Therefore, the first office action for this case was not received until receipt of the Non-final Office Action dated October 28, 2009.

Patentee's request has been re-considered. As no new arguments have been presented, the patent term adjustment of 2276 days, as previously noted and as indicated in the patent, is properly reflected.

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.

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

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.
10/046,968	01/17/2002	Reinhold Holtkamp SR.	030502/0147	5426

7590 03/22/2011

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER	
HAAS, WENDY C	
ART UNIT	PAPER NUMBER
1661	
MAIL DATE	DELIVERY MODE
03/22/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

FORM PTOM327-5 (Rev. 02/08)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

March 22, 2011

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

Re Application of
HOLTKAMP, REINHOLD SR.
Application No: **10/046968**
Filed: **01/17/2002**
Attorney Docket No: **030502/0147**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**
:

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 6, 2002.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,968	01/17/2002	Reinhold Holtkamp SR.	030502/0147	5426

22428 7590 04/05/2011
FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER	
HAAS, WENDY C	
ART UNIT	PAPER NUMBER
1661	

MAIL DATE	DELIVERY MODE
04/05/2011	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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Alexandria, VA 22313-1450
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April 5, 2011

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

In re Application of :
HOLTKAMP, REINHOLD SR. : **DECISION ON PETITION**
Application No. **10/046968** : **TO ACCEPT COLOR**
Filed: **01/17/2002** : **DRAWINGS**
Attorney Docket No **030502/0147**

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) March 6,2002.

The petition is **DISMISSED.**

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, (One (1) set for EFW filings, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings

"The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the Office upon request and payment of the necessary fee."

The petition did not meet the following requirement(s). 1 ☐ 2 ☑ 3 ☐

A renewed petition filed under 37 C.F.R. 1.84 (a) (2) must be filed within TWO (2) MONTHS of this decision. If a renewed petition is not filed within the TWO (2) Months of this decision the drawings will be printed in black and white.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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 NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/046,968	01/17/2002	Reinhold Holtkamp SR.	030502/0147	5426

7590 06/14/2011

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER	
HAAS, WENDY C	

ART UNIT	PAPER NUMBER
1661	

MAIL DATE	DELIVERY MODE
06/14/2011	PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management

UNITED STATES 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 14, 2011

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

Re Application of
HOLTKAMP, REINHOLD SR.
Application: **10/046968**
Filed: **01/17/2002**
Attorney Docket No: **030502/0147**

: **DECISION ON PETITION**
: **ACCEPTANCE OF COLOR**
: **DRAWINGS**

This is a decision on the Renewal of Petition to Accept Color Drawings under 37 C.F.R 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) June 3, 2011.

The petition is **GRANTED**.
A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

   "The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquires relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Bernadette Queen/
Quality Control Specialist
Office of Data Management
Publications Branch

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)
6523188	2003-02-25	10/047,148	2002-01-14	13641-001

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity	Fee	Code	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Allan A. Fanucci/	Date (YYYY-MM-DD)	2012-03-13
Name	Allan A. Fanucci	Registration Number	30256

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

Privacy Act Statement

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

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

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6523188
Issue Date: February 25,2003
Application No. 10047148
Filed: January 14,2002
Attorney Docket No. KIE6317P0060US

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

This is a decision on the electronic petition, filed March 13,2012 ,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 13,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO, CA 92121-2133

MAILED

APR 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,291,494 :
Issue Date: November 6, 2007 :
Application No. 10/047,253 : NOTICE
Filed: January 14, 2002 :
Attorney Docket No. CIT1510-4

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of :
John H. Stevens :
Application No. 10/047,581 : DECISION DISMISSING PETITION
Filed: October 21, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT-287 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed application set forth in the amendment filed with the present petition.

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 satisfy item (1) above.

The amendment filed with the present petition lists the filing date of Application No. 08/615,481 as March 25, 1996. However, Office records show that the correct filing date for Application No. 08/615,481 is March 15, 1996. Therefore, before the petition under 37 CFR 1.178(a)(3) can be granted, a renewed petition and either an Application

Data Sheet (ADS) or substitute amendment should submitted, which sets forth the correct filing date of Application No. 08/615,481.

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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 14 2011

OFFICE OF PETITIONS

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

In re Application of :
John H. Stevens :
Application No. 10/047,581 : DECISION DISMISSING PETITION
Filed: October 23, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT-287 :

This is a decision on the renewed communication filed on March 16, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications filed in the instant petition.

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 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 fails to comply with item (1) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment 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.

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

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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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) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet (ADS) in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5). The Application Data Sheet or substitute amendment must also state the relationship of the prior-filed applications to this application.

UNITED STATES PATENT AND TRADEMARK OFFICE

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NEW BRUNSWICK, NJ 08933-7003

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of
John H. Stevens
Application No. 10/047,581
Filed: October 23, 2001
Attorney Docket No. HRT-287

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed communication filed on April 21, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications filed in the instant petition.

The petition is again **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 fails to comply with item (1) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment 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[1].

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an ADS or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

By hand: Customer Service Window
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By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

[1] The copy of the priority claim filed with the present petition on April 21, 2011, contains the incorrect filing date of Application No. 08/615,481. Also, it is noted that the correct filing date appears in the present petition; however, no new amendment or Application Data Sheet (ADS) has been submitted with the correct filing date. Therefore, the present petition cannot be granted at this time.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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JUN 29 2011

OFFICE OF PETITIONS

In re Application of :
John H. Stevens :
Application No. 10/047,581 : DECISION DISMISSING PETITION
Filed: October 23, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT-287 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on May 25, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications filed in the instant petition.

The petition is again **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 satisfy item (1) above.

The reference to add the above-noted prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no

new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet (ADS) or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22314

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Any questions concerning this matter may be directed to undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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JUL 18 2011

OFFICE OF PETITIONS

In re Application of :
John H. Stevens :
Application No. 10/047,581 : DECISION DISMISSING PETITION
Filed: October 23, 2001 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. HRT-287 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on July 7, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional applications filed in the present petition.

The petition is **GRANTED**.

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.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications 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 nonprovisional applications, accompanies this decision on petition.

Additionally, it is noted that petitioner submitted renewed petition fee payments in the amount of $1,410 on May 25, 2011 and July 7, 2011. However, since a petition under 37 CFR 1.78 does not require a renewed petition fee, a refund in the amount of $2,820 will be credited back to petitioner's deposit account.

This application is being forwarded to Technology Center Art Unit 3738 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
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
10/047,581	10/23/2001	3738	1595	HRT-287	14	12

CONFIRMATION NO. 4692

CORRECTED FILING RECEIPT

27777
PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

OC00000048735527

Date Mailed: 07/13/2011

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)

John H. Stevens, Palo Alto, CA;

Power of Attorney: The patent practitioners associated with Customer Number 27777

Domestic Priority data as claimed by applicant

This application is a CON of 08/615,481 03/15/1996 PAT 6,338,735
which is a DIV of 08/206,419 03/04/1994 PAT 5,545,214
which is a DIV of 07/730,559 07/16/1991 PAT 5,370,685

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: 02/07/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/047,581**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Endovascular aortic valve replacement

Preliminary Class

623

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

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STRASBURGER & PRICE, LLP
901 MAIN STREET
SUITE 4400
DALLAS TX 75202

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of :
Shaefer, Louisa :
Application No. 10/047,660 : ON PETITION
Filed: January 15, 2002 :
Title: Night Light :

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 15, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.[1]

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

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

This matter is being referred to Technology Center AU 2875 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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)
6565279	2003-05-20	10/047,790	2002-01-14	13641-001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Allan A. Fanucci/	Date (YYYY-MM-DD)	2012-03-13
Name	Allan A. Fanucci	Registration Number	30256

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6565279
Issue Date: May 20,2003
Application No. 10047790
Filed: January 14,2002
Attorney Docket No. KIE6317P0020US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 13,2012 ,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 13,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6532606	2003-03-18	10/047,791	2002-01-14	13641-001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Allan A. Fanucci/	Date (YYYY-MM-DD)	2012-03-13
Name	Allan A. Fanucci	Registration Number	30256

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6532606
Issue Date: March 18,2003
Application No. 10047791
Filed: January 14,2002
Attorney Docket No. KIE6317P0070US

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 13,2012 ,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 13,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111219

DATE : December 20, 2011

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7397476

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: Amare Mengistu **Art Unit** 2629

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAILED
OCT 24 2011
OFFICE OF PETITIONS

Roche Molecular Systems, Inc.
4300 Hacienda Drive
Pleasanton CA 94588

In re Patent No. 7,201,880 :
Issue Date: April 10, 2007 :
Application No.:10/048,132 : NOTICE
Filed: June 12, 2002 :
Attorney Docket No.: 23339-US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 23, 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 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.

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

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

MAILED
MAR 19 2012
OFFICE OF PETITIONS

In re Patent No. 6,776,057 :
Issue Date: August 17, 2004 :
Application No. 10/049,323 : NOTICE
Filed: May 14, 2002 :
Attorney Docket No. 6770-5

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.**

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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of	:	
Bruce Karl Thor	:	DECISION ON REQUEST
Patent Number: 7,718,705	:	FOR RECONSIDERATION OF
Issue Date: 05/18/2010	:	PATENT TERM ADJUSTMENT
Application No. 10/049427	:	and
Filing or 371(c) Date: 05/06/2002	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: D4220-78-PUS	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 16, 2010, under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-six (1336) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-six (1336) days is **GRANTED to the extent indicated herein.**

As to the "B" delay, the period is 511 days, not 512 days. This period is based on the failure of the Office to issue a patent within three years after the national stage commenced under 35 U.S.C. 371(b) or (f). See 1.702(b). The priority date of this application is September 13, 1999, and the period begins March 4, 2005, and ends on July 27, 2006, the day before the RCE was filed, and is 511 days. See, 35 U.S.C. 154(b)(1)(B)(i).

Moreover, the "B" delay period does not include the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 115 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is 396 days (511 days – 115 days), not 512 days.

Finally, as to the period of overlap, there is no overlap between the "A" delay period and the "B" delay period. As such, the patent term adjustment is 1227, not 1336 days.

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 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 one thousand two hundred twenty **(1220)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,718,705 B1

DATED : **May 18, 2010**

INVENTOR(S) : Thor

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 869 days.

Delete the phrase "by 869 days" and insert – by 1227 days--

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Bruce Karl Thor	:	DECISION ON REQUEST
Patent Number: 7,718,705	:	FOR RECONSIDERATION OF
Issue Date: 05/18/2010	:	PATENT TERM ADJUSTMENT
Application No. 10/049427	:	
Filing or 371(c) Date: 05/06/2002	:	
Attorney Docket Number: D4220-78-PUS	:	

This is a decision on the petition filed on November 12, 2010, under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-five (1335) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred thirty-five (1335) days is **DISMISSED**.

A Decision on a Petition under 37 CFR 1.705(d) was mailed October 20, 2010. The Decision stated that the "B" delay period does not include the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 115 days. See, 35 U.S.C. 154(b)(1)(C)(iii). Thus, the "B" delay period is 396 days (511 days – 115 days), not 512 days.

Petitioner files the present petition and avers that the decision is improper in stating that the "B" delay period does not include the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 115 days. Petitioner notes the decisions reliance upon 35 U.S.C. 154(b)(1)(C)(iii). Petitioner asserts that reliance upon 154(b)(1)(C)(iii) is misplaced and improper and in addition, the provisions of 154(b)(1)(C)(iii) have not been satisfied.

Petitioner further asserts that 35 U.S.C. 154(b)(1)(B)(ii) does not apply, and that 35 U.S.C. 154(b)(1)(B)(iii) is similarly inapplicable. Petitioner argues that petitioner is entitled to 511 days of B

delay as calculated from the date that is three years after the date on which the national stage commenced and ending on the date the patent issued, but not including the date on which the RCE was filed.

Petitioner's arguments have been carefully considered. A review of the Decision on petition, mailed October 20, 2010, reveals that the Decision improperly cited to 35 U.S.C. 154(b)(1)(C)(iii) to support the assertion that the "B" period does not include the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 115 days. The correct citation is 35 U.S.C. 154(b)(1)(B)(ii).

Petitioner avers that 35 U.S.C. 154(b)(1)(B)(ii) does not apply, and that 37 CFR 41.35 acknowledges that jurisdiction does not pass to the Board until all briefs and examiner's answer have been entered. Petitioner is directed to 37 CFR 1.703(b), which provides that *the period of adjustment of the term of a patent* shall not include the period equal to the sum of the following periods: (1) The period of pendency consumed by continued examination of the application under 35 U.S.C. 132(b) (35 U.S.C. 154(b)(1)(B)(i)); (2) the period of pendency consumed by interference proceedings (35 U.S.C. 154(b)(1)(B)(ii)); (3) the period of pendency consumed by imposition of a secrecy order (35 U.S.C. 154(b)(1)(B)(ii)); and (4) *the period of pendency consumed by appellate review under 35 U.S.C. 134[1], 141,145, whether successful or unsuccessful (35 U.S.C. 154(b)(1)(B)(ii))*. (Emphasis supplied).

In view of the foregoing, the Office did not include in the "B" period the number of days beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31, and ending on the day before the RCE was filed, or 115 days, and the "B" delay period is 396 days (511 days – 115 days).

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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

[1] 35 U.S.C. 134, Appeal to the Board of Patent Appeals and Interferences, states: (a) PATENT APPLICANT. — An applicant for a patent, any of whose claims has been twice rejected, may appeal from the decision of the primary examiner to the Board of Patent Appeals and Interferences, having once paid the fee for such appeal.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

-Paper No.: _____

DATE : March 10, 2011

TO SPE OF : ART UNIT 2916
SUBJECT : Request for Certificate of Correction for Appl. No.: 10/049816 patent no 7344655

CofC mailroom date: 2-23-11

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

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: _____

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TUNG & ASSOCIATES
Suite 120
838 W. Long Lake Road
Bloomfield Hills, MI 48302

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,067,235 :
Issue Date: June 27, 2006 :
Application No. 10/050,322 : ON PETITION
Filed: January 15, 2002 :
Patentee(s): Ming Huan Tsai, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on December 28, 2010, 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

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)
7058821	2006-06-06	10052328	2002-01-17	3066-002

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required 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)	2011-01-24
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

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In re Patent No. 7058821
Issue Date: June 6,2006
Application No. 10052328
Filed: January 17,2002
Attorney Docket No. IPOL-0001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 24,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 24,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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MAY 31 2011

Office of Regulatory Policy
Food and Drug Administration
10903 New Hampshire Ave., Bldg. 51, Rm. 6222
Silver Spring, MD 20993-0002

Attention: Beverly Friedman

This letter clarifies the communication of March 29, 2011 regarding application for patent term extension of U.S. Patent No. RE38,115 under 35 U.S.C. § 156. That letter incorrectly identified on the top of page 2,

> Our review of the application to date indicates that the subject patent would be eligible for extension of the patent term under 35 U.S.C. § 156.

Since it appears to the USPTO that each of the active ingredients in NUEDEXTA has been previously approved by FDA as described in the March 29, 2011 letter, the patent does not appear to be eligible for extension because the permission for the commercial marketing or use of NUEDEXTA fails to meet the requirements of §156(a)(5)(A).

Thus, our review of the application to date indicates that the subject patent would NOT be eligible for extension of the patent term under 35 U.S.C. § 156.

Furthermore, no determination has been made whether the patent in question claims a product which has been subject to the Federal Food, Drug and Cosmetic Act, or a method of manufacturing or use of such a product, as such, this communication is NOT to be considered as notice which may be made in the future pursuant to 35 U.S.C. § 156(d)(2)(A).

Inquiries regarding this communication should be directed to the undersigned at (571) 272-7755 (telephone) or (571) 273-7755 (facsimile).

Mary C. Till
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

cc: Kevin G. Shaw
Hogan Lovells US LLP
555 Thirteenth St., NW
Washington, DC 20004

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HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY NY 12207

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of :
Tsunogai :
Application No. 10/053,791 : DECISION ON PETITION
Filed: January 22, 2002 :
Attorney Docket No. JP920000423US1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of applicant's failure to take appropriate action in a timely manner after the decision of September 28, 2010 by the Board of Patent Appeals and Interferences. Therefore, the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 29, 2010. See MPEP 1214.06. A Notice of Abandonment was mailed December 6, 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 RCE accompanied by the required $810.00 fee, and an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center AU 2457 for appropriate action by the Examiner in the normal course of business on the reply received.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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James Harraway
42207 6th St. West
Lancaster CA 93534

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FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Harraway :
Application No. 10/053,920 : DECISION ON PETITION
Filed: January 24, 2002 :
Attorney Docket No. N/A :
For: PORTABLE DIALYSIS MACHINE

This is a decision on the petition under the unintentional standard of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely reply to a non-final Office action, mailed July 31, 2003, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 1, 2003. A Notice of Abandonment was mailed on June 1, 2004.

Applicant has submitted an amendment in reply to the July 31, 2003 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 31, 2003 non-final Office action, and the $810.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition 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. Please complete and return the enclosed form. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

After the mailing of this decision, the application will be returned to Technology Center AU 1772 for consideration of the amendment filed on September 2, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JAMES D. HARRAWAY
43957 18TH EAST STREET, APT. 2
LANCASTER CA 93535

Enclosures: Change of Correspondence Address

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United States Patent and Trademark Office
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Jon M. Harris
Conley Rose, PC
PO Box 3267
Houston, TX 77253-3267

MAILED
FEB 02 2012
OFFICE OF PETITIONS

In re Patent No. 6,682,550 :
Issued : January 27, 2004 : ON PETITION
Application No. 10/054,002 :
Filed: January 19, 2002 :
Attorney Docket No. 01978.0249 :

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) 272-3222.

/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
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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)
6671559	2003-12-30	10054092	2002-01-22	141410.00000

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles L. Warner/	Date (YYYY-MM-DD)	2012-01-27
Name	Charles L. Warner	Registration Number	32320

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6671559
Issue Date: December 30,2003
Application No. 10054092
Filed: January 22,2002
Attorney Docket No. 141410.00000

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 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 January 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
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Decision Date : May 25,2011

In re Application of :

Alfred Margaryan

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10054328

Filed : 21-Jan-2002

Attorney Docket No : RAR-5423-2

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed May 25,2011 , 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 in this application 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.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 1731 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web	PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)**
Application Number	10054328
Filing Date	21-Jan-2002
First Named Inventor	Alfred Margaryan
Art Unit	1731
Examiner Name	ELIZABETH BOLDEN
Attorney Docket Number	RAR-5423-2
Title	FLUOROPHOSPHATE GLASS AND METHOD FOR MAKING THEREOF

An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.

APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).

A grantable petition requires the following items:
(1) Petition fee; and
(2) One of the following reasons:
(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;
(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or
(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).

Petition Fee

☐ Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

☒ Applicant(s) status remains as SMALL ENTITY.

☐ Applicant(s) status remains as other than SMALL ENTITY

Reason for withdrawal from issue

◯ One or more claims are unpatentable ◉ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees) ◯ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).
RCE request,submission, and fee. ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that : The RCE request ,submission, and fee have already been filed in the above-identified application on ☒ Are attached.
THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES I certify, in accordance with 37 CFR 1.4(d)(4) that I am: ◉ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application. ◯ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity. ◯ A sole inventor ◯ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors ◯ A joint inventor; all of whom are signing this e-petition ◯ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Michael J. Keenan/
Name	Michael J. Keenan
Registration Number	32106

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 7,989,376	:	DECISION ON REQUEST
Margaryan	:	FOR
Issue Date: August 2, 2011	:	RECONSIDERATION OF
Application No. 10/054,328	:	PATENT TERM ADJUSTMENT
Filed: January 21, 2002	:	and
Atty Docket No. RAR-5423-2	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 23, 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 one thousand, five hundred and nine days (1,509) days, or one thousand, three hundred and ninety-one (1,391) days[1].

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand, forty-eight (1,048) days is **GRANTED to the extent indicated herein.**

Patentees dispute the reduction to the patent term adjustment for applicant delay of 2,090 days. Patentees maintain that only a reduction of 688 days is appropriate.

[1] It is noted that the instant petition concerns matters that are most appropriately treated under 37 CFR 1.705(b). The instant petition was filed on May 23, 2011, prior to the payment of an issue fee and was timely under 37 CFR 1.705(b). The application matured into the subject patent without the benefit of a decision on the petition under 37 CFR 1.705(b). The matters most appropriately considered under 37 CFR 1.705(b) are now being considered, notwithstanding the petition is considered under 37 CFR 1.705(d).

A review of the application file history reveals that the reduction to the patent term adjustment under 37 CFR 1.704(c)(3) was not calculated correctly by the Office or the patentees. Further to this point, it is noted that 37 CFR 1.704(c)(3) provides:

> (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 the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (3)Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i)The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii)The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

A review of the application file history reveals that the subject application became abandoned on February 19, 2004, after applicants failed to respond to a final Office action mailed November 18, 2003. A Notice of Abandonment was mailed July 1, 2004. A petition under 37 CFR 1.137(b) was first filed June 6, 2006. The record demonstrates that the petition under 37 CFR 1.137(b), was not deemed grantable as evidenced by decisions mailed April 25, 2007, June 6, 2008, January 6, 2009, April 1, 2009, and October 28, 2009. A petition under 37 CFR 1.137(b) filed February 26, 2010, was granted on March 22, 2010. It appears, however, that petition under 37 CFR 1.137(b), filed June 6, 2006, was grantable. Pursuant to 37 CFR 1.704(c)(3), a period of reduction to the patent term adjustment of 960 days is warranted with said period beginning on the date of abandonment of the application, February 19, 2004, and ending the date that is four months after the date the grantable petition to revive the application was filed, October 6, 2006. Further review of the file history reveals that a reduction to the patent term adjustment under 37 CFR 1.704(c)(4) of 642 days is also warranted, with said period beginning on the day after the date

two months from the mailing date of the notice of abandonment, September 2, 2004, and ending on the date a petition to revive the application was filed, June 6, 2006.

It is noted that period of reduction under 37 CFR 1.704(c)(4) entirely overlaps with the period of reduction under 37 CFR 1.704(c)(3). **It is, therefore, appropriate to enter only the period of reduction to the patent term adjustment of 961 days. The period of applicant delay of 2,090 days is being removed and a period of 961 days entered.**

In view thereof, the patent term adjustment is 1,048 days (1,509 days of "A" delay + 500 days of "B" delay - 961 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.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 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 **one thousand, forty-eight (1,048) 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 : 7,989,376 B2

DATED : Aug. 2, 2011

INVENTOR(S) : Margaryan

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 (0) days

Delete the phrase "by 0 days" and insert – by 1,048 days--

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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Date Mailed: October 14, 2010
Patent No. : 6,544,434 B2
Ser. No. :10/054507
Issued :April 8, 2003
Inventor(s) :Richard Sapienza
Title :ENVIRONMENTALLY BENIGN ANTI-ICING OR DEICING FLUIDS

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, attorney agent/firm) 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 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(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions & Certificates
of Correction Branch
(571) 272-0423

Alan B. Clement
Locke Lord Bissell & Liddell, LLP
3 World Financial Center
New York, NY 10281-2101

MD/mt

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P.O. Box 1450
Alexandria, VA 22313-1450
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LOCKE LORD BISSELL & LIDDELL LLP
ATTN: MICHAEL RITCHIE, DOCKETING
2200 ROSS AVENUE
SUITE # 2200
DALLAS TX 75201-6776

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NOV 03 2010

OFFICE OF PETITIONS

In re Patent No. 6,544,434 :
Application No. 10/054,507 :
Filed: November 12, 2001 : ON PETITION
Issued: April 8, 2003 :
Attorney Docket No. 1003473-00014 :

This is a decision on the petition, filed October 20, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the issued patent.

The request is **DISMISSED.**

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid the name and correct address of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name and correct address of an assignee if the assignment was submitted after payment of the issue fee ***but prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that the most current assignment recorded September 21, 2010, Reel 025017 and Frame 0425 states the assignee's name as "MLI Associates, L.L.C". Therefore, the assignment recorded on September 21, 2010, is after the date of issuance of this patent.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. See MPEP Section 307.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Alan B. Clement
Locke Lord Bissell & Liddell, LLP
3 World Financial Center
New York, N.Y. 10281-2101

[1] *See* Official Gazette of June 22, 2004

PTO/SB/66 (03-09)
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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6568233	2003-05-27	10055895	2002-01-28	ID004212

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/SMG/	Date (YYYY-MM-DD)	2012-01-27
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
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In re Patent No. 6568233
Issue Date: May 27,2003
Application No. 10055895
Filed: January 28,2002
Attorney Docket No. 001182B

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 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 January 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)
6692201	2004-02-17	10056455	2002-01-28	c148363.0287102

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Charles L. Warner/	Date (YYYY-MM-DD)	2012-04-09
Name	Charles L. Warner	Registration Number	32320

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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P.O. Box 1450
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www.uspto.gov

In re Patent No. 6692201
Issue Date: February 17,2004
Application No. 10056455
Filed: January 28,2002
Attorney Docket No.

:
: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

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Alexandria, VA 22313-1450
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DAVIDSON BERQUIST JACKSON & GOWDEY, LLP
ATTN: CLARIA/DR. BRIAN SIRITZKY, ESQ.
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,149,704 :
Issued: December 12, 2006 :
Application No. 10/569,932 : DECISION ON PETITION
Filed: January 25, 2002 :
Attorney Docket No. 4001-0508 :

This is a decision on the petition under 37 CFR 1.378(c), filed February 3, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 13, 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.

Further, the address given on the petition differs from the new 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.

Additionally, petitioner should note that a change of correspondence address does 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Murray Markiles
15260 Ventura Boulevard
20th Floor
Sherman Oaks, CA 91403

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
Daniel Louis Duquette :
Application No. 10/057,035 : DECISION ON REQUEST FOR REFUND
Filed: January 23, 2002 :
Attorney Docket No. DUQUET.D-02 :

This is a decision on the Request For Refund filed February 16, 2011.

The request is **DISMISSED**.

The request for refund is dismissed because USPTO regulations require that papers filed in the application be signed by a registered attorney or agent, by the applicants (inventors) or by the assignee of the entire interest who has taken action in the application in accordance with 37 CFR 3.71. The request for refund is not signed. Note 37 CFR 1.33(b) which states:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Further, applicant is advised that Office finance records indicate that the amount of $980.00 was paid by applicant (Mr. Raymond L. Robin) and the amount of $1,150.00 was paid by Mr. Chris McDonald, both via credit card payment. Therefore, applicant may only request a refund of $980.00 and Mr. Chris McDonald may request a refund of $1,150.00.

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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PATENT LAW & VENTURE GROUP
2424 S.E. BRISTOL, SUITE 300
NEWPORT BEACH CA 92660

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent No. 6,532,146 :
Issue Date: March 11, 2003 :
Application No. 10/057,035 : DECISION ON REQUEST FOR REFUND
Filed: January 23, 2002 :
Attorney Docket No. DUQUET.D-02 :

This is a decision on the renewed Request For Refund filed March 3, 2011.

The request is **GRANTED**.

As stated in the decision mailed March 3, 2011, applicant was advised that "Office finance records indicate that the amount of $980.00 was paid by applicant (Mr. Raymond L. Robin) and the amount of $1.150.00 was paid by Mr. Chris McDonald, both via credit card payment. Therefore, applicant may only request a refund of $980.00 and Mr. Chris McDonald may request a refund of $1,150.00."

In view of the above, a total of $980.00 is being refunded by check to Mr. Raymond L. Robin.

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

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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VISTEON/BRINKS HOFER GILSON & LIONE
524 SOUTH MAIN STREET
SUITE 200
ANN ARBOR, MI 48104

MAILED

JAN 28 2011

OFFICE OF PETITIONS

In re Application of	:	
N/A	:	
Application No. 10/057,061	:	DECISION ON PETITION
Filed: January 24, 2002	:	
Attorney Docket No. 10541-1186	:	

This is a decision on the petition, filed February 9, 2004 and supplemented on October 26, 2005, 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 or properly reply to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed February 25, 2002, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before April 25, 2002.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on April 22, 2002. A copy of the previously submitted reply accompanies the petition.

The reply acknowledged as having been received in the USPTO on April 22, 2002 is not complete in the record of the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the complete reply submitted on April 22, 2002 was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on April 22, 2002.

This application file is being referred to the Office of Patent Application Processing (OPAP) for further pre-examination processing.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4000

/Carl Friedman/
Carl Friedman
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)
6,583,055	2003-06-24	10/057,142	2002-01-25	LKSP0162USA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required 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.**

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

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5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

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In re Patent No. 6583055
Issue Date: June 24,2003
Application No. 10057142
Filed: January 25,2002
Attorney Docket No. B-4481 619487-3

:
: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

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

MAILED
JUL 29 2011
OFFICE OF PETITIONS

In re Application of :
Sergel Appolonovich Pulnev :
Application No. 10/057,261 : DECISION ON REQUEST FOR REFUND
Filed: October 24, 2001 :
Attorney Docket No. 792-82 PCT/US/CON II :

This is a decision on the Request For Refund filed July 20, 2011.

The request is **GRANTED**.

Applicant files the above request for refund and states that "On September 22, 2010, the undersigned attorney filed [sic] a Petition to Accept an Unintentionally Delayed Claim Under 35 U.S.C. § 119. A copy of that filed Petition (without exhibits) is attached. The Electronic Acknowledgement Receipt (copy attached) of September 22, 2010 indicated a payment of $1,510.00 via deposit account. The Electronic Patent Application Fee Transmittal (copy attached) shows that the $1,510.00 fee included a $100.00 fee for certificate of corrections and a $1,410.00 fee for the above-noted Petition. On September 23, 2010 the Patent Office charged the deposit account for both of these matters. (See copy of deposit account statement – copy attached).

On June 29, 2011[sic] The Office of Petitions issued a Decision on Petition Under 37 CFR 1.55(c). A copy of this Decision is attached. Even though on page 2 of the Decision it is noted that the petition fee of $1,410.00 was previously received with the Petition, the Patent Office again charged the deposit account the fee amount of $1,410. ..."

A review of Office finance records show that the petition fee of $1,410.00 was charged on September 23, 2010 and again on June 29, 2011(duplicate payment). Therefore, the request for refund is granted.

As authorized, the $1,410.00 duplicate petition fee charged on June 29, 2011 (accounting date) has been credited to petitioner's deposit account.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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NOVAK DRUCE + QUIGG LLP
300 NEW JERSEY AVENUE, NW
FIFTH FLOOR
WASHINGTON DC 20001

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of :
LING, Marvin T. :
Application No. 10/057,420 : DECISION ON PETITION
Filed: January 25, 2002 : TO WITHDRAW
Attorney Docket No. **9050.002.PCUS00** : 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 09, 2010.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 C.F.R 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the change of address does not include an address for (1) the name inventor; or (2) an assignee of the entire interest under C.F.R 3.71, who has properly intervened.

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 571-272-4231.

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

MAILED

OCT 07 2011

OFFICE OF PETITIONS

GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK CA 94025

In re Patent No. 6,885,736 :
Issued: April 26, 2005 :
Application No. 10/057,508 : ON PETITION
Filed: January 25, 2002 :
Attorney Docket No. NUAN0006C2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 3, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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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Steven L. Highlander
FULBRIGHT & JAWORSKI L.L.P.
Suite 2400
600 Congress Avenue
Austin TX 78701

MAILED
MAR 21 2011
OFFICE OF PETITIONS

In re Patent of Blattner et al. :
Patent No. 6,989,265 :
Issue Date: January 24, 2006 :
Application No. 10/057,582 :
Filing Date: January 23, 2002 :
Attorney Docket No. WARF:017US :

DECISION ON REQUEST FOR CERTIFICATE OF CORRECTION

This letter is in response to the request for certificate of correction, filed July 6, 2010, requesting correction of the patent term adjustment indicated in the patent. Patentees request the patent term adjustment read "565 days" instead of 283 days.

The request is **DISMISSED**.

Patentees are 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 January 24, 2006. The patent indicated the patent term adjustment was 283 days. The instant request was filed on July 6, 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 or less than 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 565 days is dismissed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

---

[2] Id. at 42079-42080.

[3] Id. at 42080.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Rosa O. Kelson
Apt #322
3604 Cedar Springs Road
Dallas TX 75219

MAILED

SEP 15 2011

OFFICE OF PETITIONS

In re Application of :
Kelson :
Application No. 10/057,604 : ON PETITION
Filed: January 24, 2002 :
Attorney Docket No. 13575:10 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 29, 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 is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The petition has **not** been reviewed on the merits because the petition has not been properly signed.

In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

The petition has not been properly signed.

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 (EFS).

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Grant
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

Rosa O. Kelson
Apt #322
3604 Cedar Springs Road
Dallas TX 75219

MAILED

OCT 31 2011

OFFICE OF PETITIONS

In re Application of :
Kelson :
Application No. 10/057,604 : DECISION ON PETITIONS
Filed: January 24, 2002 :
Attorney Docket No. 1375:10 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2011, to revive the above-identified application. It is noted that petitioner has also provided petitions under 37 CFR 1.137(a) and 1.137(f). Since these petitions are not accompanied by the required fee, the petitions will not be treated on the merits. It is further noted petitioner has filed a separate petition to expunge some of the documents submitted on September 26, 2011, which will be treated as a separate matter.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action, which was mailed on April 7, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on April 13, 2006. In response to the amendment an Advisory Action was mailed on May 11, 2006 indicating the amendment submitted on April 13, 2006 did not place the application in condition for allowance. No timely request for an extension of time pursuant to 37 CFR 1.136 was obtained. Accordingly, this application became abandoned on July 8, 2006. A Notice of Abandonment was mailed on January 30, 2007. A petition under 37 CFR 1.137(b) was dismissed on September 15, 2011.

Application No. 10/057,604

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 (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for period (2).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public.

See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 5 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

(A) the date that the applicant first became aware of the abandonment of the application; and

(B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Petitioner has failed to provide sufficient evidence to establish that the delay in filing the initial petition under 37 CFR 1.137(b) was unintentional. In the documents provided under 37 CFR 1.137(a), petitioner indicates there was an issue with the attorney prosecuting the application. Petitioner also states that she did not become aware that the application was abandoned until April 2011. However petitioner should state with more specificity what if any contact she had with the attorney responsible for prosecuting the application as to the status of

the application and what caused the abandonment of the application. Further any evidence to support arguments made by petitioner should be included on renewed petition.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

/Charlema Grant/

Charlema Grant
Attorney Advisor
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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Patent of Ronald L. Mahany et al.	:	DECISION ON REQUEST
Patent No. 7,606,575	:	FOR RECONSIDERATION OF
Issue Date: October 20, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/057,816	:	AND NOTICE OF INTENT TO
Filing Date: January 24, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 14419US01	:	CORRECTION

This is a decision in response to the "Request for Reconsideration of USPTO Recalculation of Patent Term Adjustment in View of *Wyeth*" filed May 21, 2010, stating the correct patent term adjustment is one thousand two hundred nineteen (1219) days.

The request for reconsideration of the patent term adjustment is **dismissed**.

The patent issued October 20, 2009. The patent term adjustment indicated on the patent was 675 days.

A "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" was filed March 31, 2010.

On April 21, 2010, the Office issued a decision in response to the March 31, 2010 request. The decision indicated the Office planned to issue a certificate of correction indicating the term of the patent is extended or adjusted by one thousand two hundred eighteen (1218) days.

The instant request was filed May 21, 2010, and asserts the correct number of days of patent term adjustment is 1219 days.

Patentees' basis for asserting the correct number of days of patent term adjustment is 1219 days is extremely unclear. Patentees essentially assert the patent term adjustment is 1219 days because the filing date for the application is January 24, 2002, the date three years after the filing date is January 24, 2005, and the date a request for continued examination was filed is March 20, 2008. The Office will *assume* Patentees are arguing the patent term adjustment should be greater than one day based on a belief the period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") is 1151 days instead of 1150 days.

Pursuant to 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include any time period consumed by continued examination. Although Patentees appear to recognize the need to exclude a time period due to the filing of a request for continued examination from the period of B Delay, Patentees *appear* to have failed to recognize the actual date the RCE was filed is part of the time that must be excluded. Excluding the date the RCE was filed from the period of B Delay, results in B Delay of 1150 days, not 1151 days.

In view of the prior discussion, the instant request fails to establish the patent term adjustment should be 1219 days instead of 1218 days.

As stated in the prior decision mailed April 21, 2010, a certificate of correct indicating the patent term adjustment is 1218 days will be issued.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred eighteen (1218)** days.

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 DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,606,575 B2
APPLICATION NO.	:	10/057,816
DATED	:	October 20, 2009
INVENTOR(S)	:	Ronald L. Mahany et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the Title page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 595 days.

Delete the phrase "by 595 days" and insert -- by 1218 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/19/11

TO SPE OF : ART UNIT 2431

SUBJECT : Request for Certificate of Correction for Appl. No.: 10058214 Patent No.: 7215780

CofC mailroom date: 05/13/11

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 Director's/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
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MAILED

APR 20 2011

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Patent No. 7,102,901 :
Issue Date: September 5, 2006 :
Application No. 10/058,454 : ON PETITION
Filed: January 28, 2002 :
Attorney Docket No. 40770-000127 :

This is a decision on the petition under 37 CFR 1.378(c), January 31, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 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.

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)
7072854	2006-07-04	10058551	2002-01-28	6400-0030

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required 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 K. Kinney/	Date (YYYY-MM-DD)	2010-08-27
Name	Michael K. Kinney	Registration Number	42740

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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
www.uspto.gov

In re Patent No. 7072854
Issue Date: July 4,2006
Application No. 10058551
Filed: January 28,2002
Attorney Docket No. 6400-0030

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 27,2010 ,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 August 27,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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CHOATE, HALL & STEWART LLP/MSKCC
SLOAN-KETTERING INSTITUTE
FOR CANCER RESEARCH
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Patent No. 6,828,340 :
Issue Date: December 7, 2004 :
Application No. 10/058,695 : NOTICE
Filed: March 29, 2008 :
Attorney Docket No. Q107265 :

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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Alexandria, VA 22313-1450
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FEB 03 2011

OFFICE OF PETITIONS

Sughrue Mion-ABBOTT LABS
2100 Pennsylvania Avenue, N.W.
Washington, DC 20037

In re Application of :
Gilson et al. :
Application No. 10/058,828 :
Filed: January 30, 2002 :
Attorney Docket No. A8937 :

DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT

This is a decision responding to the papers August 25, 2010, which are being treated as a petition under 37 C.F.R. § 1.705(b). Applicants request the initial determination of patent term adjustment be corrected from two hundred thirty (230) days to six hundred seventy-three (673) days.

The application for patent term adjustment is **granted to the extent indicated herein.**

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) ("Determination") on May 26, 2010, advising Applicants of a patent term adjustment to date of 230 days. The instant petition was timely filed with the issue fee on August 25, 2010.

Applicants state the Office's PAIR system indicates the initial patent term adjustment is 673 days, which is the 230 days set forth on the Determination increased by 443 days of Office delay under 37 C.F.R. § 1.703(c)(1). Applicants assert the patent term adjustment set forth in PAIR is correct.

The Office has reviewed the record and determined the correct initial patent term adjustment is 933 days. As a result, the Office has updated the Office's PALM screen (and PAIR) to reflect the correct patent term adjustment at the time of the mailing of the Notice of Allowance is 933 days. A copy of the updated PALM screen showing the correct determination is enclosed.

Delay Under 37 C.F.R. § 1.703(c)(1) ("C Delay")

As of the date the petition was filed, PAIR indicated the period of C Delay is 443 days. Applicants agree with the 443-day determination.

A review of the record indicates the correct period of C Delay is 444 days.

Pursuant to 37 C.F.R. § 1.703(c)(1), the period of C Delay includes:

> The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application.

The Office declared an interference on January 30, 2008.

The Office issued a decision on the interference on April 17, 2009.

The number of days beginning January 30, 2008, the date the interference was declared, and ending on April 17, 2009, the date the Office issued the decision, is 444 days. In other words, the period of C Delay is 444 days.

Delay Under 37 C.F.R. § 1.703(a) ("A Delay")

As of the date the petition was filed, PAIR indicated the period of A Delay consisted solely of 527 days of delay under 37 C.F.R. § 1.703(a)(1). Applicants agree the period of A Delay is 527 days.

A review of the record indicates the correct total period of A Delay is 1,137 days.

Applicants filed a reply to a prior Office action on January 30, 2006.

The Office issued a communication suspending prosecution on April 2, 2007.

The Office declared an interference on January 30, 2008.

Pursuant to 37 C.F.R. § 1.703(a)(2), the period of A Delay includes:

> The number of days, if any, in the period beginning on the day after the date that is four months after the date a reply under § 1.111 was filed and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

The number of days beginning May 31, 2006, the day after the date four months and Applicants filed the January 30, 2006 reply, and ending January 30, 2008, the date the Office declared an interference is 610 days. In other words, the period of A Delay includes 610 days of delay under 37 C.F.R. § 1.703(a)(2).

The total period of A Delay is 1,137 days, which is the sum of 527 days of delay under 37 C.F.R. § 1.703(a)(1) and 610 days of delay under 37 C.F.R. § 1.703(a)(2).

Overlap Between the Period of A Delay and the Period of C Delay

The 610-day period of delay under 37 C.F.R. § 1.703(a)(2) includes January 30, 2008, the date the Office declared an interference. The 444-day period of C Delay also includes January 30, 2008. Therefore, the periods of A Delay and C Delay overlap by one day.

Delay Under 37 C.F.R. § 1.704 ("Applicant Delay")

As of the date the petition was filed, PAIR indicated the total period of Applicant Delay is 297 days. Applicants agree the total period of Applicant Delay is 297 days.

The 297-day period consists of:

1. A 123-day period of delay under 37 C.F.R. § 1.704(b),
2. A 90-day period of delay under 37 C.F.R. § 1.704(b),
3. A 7-day period of delay under 37 C.F.R. § 1.704(b), and
4. A 77-day period of delay under 37 C.F.R. § 1.704(c)(8).

A review of the record indicates the correct period of Applicant Delay is 647 days.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

> [A]n 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.

The Office issued an action on September 21, 2005. A reply to the action was not filed until January 30, 2006. The reply was filed more than three months after the Office issued the action. Therefore, a reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(b).

The number of days beginning December 22, 2005, the day after the date three months after the Office mailed the September 21, 2005 action, and ending on January 30, 2006, the date Applicants filed a reply, is 40 days. Therefore, the total period of Applicant Delay includes a 40-day period of delay under 37 C.F.R. § 1.704(b).

Pursuant to 37 C.F.R. § 1.704(c)(8), circumstances that will result in a reduction in the period of adjustment include:

> 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, 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 initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

Applicants filed a reply to an Office action on January 30, 2006. Applicants subsequently filed an information disclosure statement ("IDS") on December 6, 2006. The IDS was not accompanied by a statement under 37 C.F.R. § 1.704(d) and the record fails to indicate the examiner expressly requested the IDS. Therefore, a reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(8).

The number of days beginning January 31, 2006, the day after the date the reply was filed, and ending on December 6, 2006, the date the IDS was filed, is 310 days. Therefore, the total period of Applicant Delay includes a 310-day period of delay under 37 C.F.R. § 1.704(c)(8).

In view of the prior discussion, the correct total period of Applicant Delay is 647 days, which consists of:

1. A 123-day period of delay under 37 C.F.R. § 1.704(b),
2. A 90-day period of delay under 37 C.F.R. § 1.704(b),
3. A 7-day period of delay under 37 C.F.R. § 1.704(b),
4. A 77-day period of delay under 37 C.F.R. § 1.704(c)(8),
5. A 40-day period of delay under 37 C.F.R. § 1.704(b), and
6. A 310-day period of delay under 37 C.F.R. § 1.704(c)(8).

Conclusion

The correct total period of A Delay is 1,137 days.

The correct period of C Delay is 444 days.

The periods of A Delay and C Delay overlap by one day.

The correct total period of Applicant Delay is 647 days.

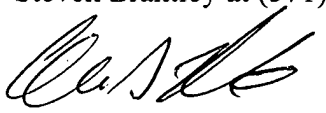
The correct patent term adjustment as of the date the Office issued the Notice of Allowance is 933 days, which is the sum of 1,137 days of A Delay and 444 days of C Delay reduced by one day of overlap between the periods of A Delay and C Delay and reduced by 647 days of Applicant Delay.

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 that any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant 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 is mailed to applicants 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

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10058828 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10058828

Application Filing Date	01/30/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	970
A Delays	527	PTO Manual Adjustment	260
B Delays	0	Applicant Delay (APPL)	297
C Delays	443	Total PTA (days)	933

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
98	01/11/2011		P028	Adjustment of PTA Calculation by PTO	260	0	
88	05/26/2010		MN/=.	Mail Notice of Allowance		0	
87	05/18/2010		IREV	Issue Revision Completed		0	
86	05/18/2010		N/=.	Notice of Allowance Data Verification Completed		0	
85	05/18/2010		DVER	Document Verification		0	
84	05/18/2010		CNTA	Notice of Allowability		0	
70	04/06/2010		IDTC	Interference dispatch to TC		0	
69	02/17/2010		INHY	case Inherited		0	
66	06/15/2009		C.ADB	Correspondence Address Change		0	
65	04/20/2009		MID/F	Mail Interference Decision - Favorable		0	
64	04/17/2009	01/30/2008	ID/F	Interference Decision on Priority - Favorable	443	62	
63	07/09/2008		C.ADB	Correspondence Address Change		0	
62	01/30/2008		I.D.	Declaration of Interference		0	
60	10/09/2007		DOCK	Case Docketed to Examiner in GAU		0	
59	07/08/2007		FWDX	Date Forwarded to Examiner		0	
58	07/08/2007		EOSP	to Close the A/R Record and Reset the Status for Expired Suspensions.		0	
57	05/21/2007		LET.	Miscellaneous Incoming Letter		0	
56	04/02/2007		ML.SP	Mail Letter of Suspension		0	
55	04/02/2007		L.SP	Letter of Suspension - Examiner Initiated		0	
54	04/02/2007		CTID	Interference Initial Memo Disposal		0	
51.7	12/08/2006		M844	Information Disclosure Statement (IDS) Filed		0	
78	12/06/2006		IDSC	Information Disclosure Statement considered		0	
50	12/06/2006		RCAP	Reference capture on IDS		0	
49.7	12/06/2006		M844	Information Disclosure Statement (IDS) Filed		0	
49	12/06/2006		WIDS	Information Disclosure Statement (IDS) Filed		0	
80	11/13/2006		IDSC	Information Disclosure Statement considered		0	
53	11/13/2006		RCAP	Reference capture on IDS		0	
52.7	11/13/2006		M844	Information Disclosure Statement (IDS) Filed		0	
52	11/13/2006		WIDS	Information Disclosure Statement (IDS) Filed		0	
48	08/25/2006		C.AD	Correspondence Address Change		0	
47	08/25/2006		PA..	Change in Power of Attorney (May Include Associate POA)		0	
46	08/14/2006		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
45	08/14/2006		MEXIN	Mail Examiner Interview Summary (PTOL - 413)		0	
44	07/26/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
43	07/26/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
42	01/30/2006		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received		0	
41	01/30/2006		XT/G	Request for Extension of Time - Granted		0	
40	12/19/2005		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
36	09/23/2005		FWDX	Date Forwarded to Examiner		0	
39	09/21/2005		MCTNF	Mail Non-Final Rejection		0	
38	09/19/2005		CTNF	Non-Final Rejection		0	
37	09/14/2005		LET.	Miscellaneous Incoming Letter		0	
35	09/14/2005	06/29/2005	SA..	Supplemental Response		77 26	
29	09/01/2005		PA..	Change in Power of Attorney (May Include Associate POA)		0	
28	08/30/2005		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
27	07/08/2005		FWDX	Date Forwarded to Examiner		0	
26	06/29/2005	06/22/2005	A...	Response after Non-Final Action		7 23	
25	06/29/2005		XT/G	Request for Extension of Time - Granted		0	
24	06/23/2005		EXIN	Examiner Interview Summary Record (PTOL - 413)		0	
23	03/22/2005		MCTNF	Mail Non-Final Rejection		0	
22	03/20/2005		CTNF	Non-Final Rejection		0	
21	03/16/2005		FWDX	Date Forwarded to Examiner		0	
20	03/07/2005	12/07/2004	ELC.	Response to Election / Restriction Filed		90 16	
19	03/07/2005		XT/G	Request for Extension of Time - Granted		0	
18	09/21/2004		C.AD	Correspondence Address Change		0	

17	09/21/2004		PA..	Change in Power of Attorney (May Include Associate POA)			0
16	09/07/2004	03/30/2003	MCTRS	Mail Restriction Requirement	527		-1
15	09/07/2004		CTRS	Requirement for Restriction / Election			0
14	03/31/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
13	03/30/2004		DOCK	Case Docketed to Examiner in GAU			0
11	10/21/2003		A.PE	Preliminary Amendment			0
10	10/21/2003		A.PE	Preliminary Amendment			0
12.7	05/07/2003		M844	Information Disclosure Statement (IDS) Filed			0
12	05/07/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
9	10/30/2002		TI1050	Transfer Inquiry to GAU			0
8	10/07/2002		OIPE	Application Dispatched from OIPE			0
7	10/04/2002		COMP	Application Is Now Complete			0
5	09/19/2002	05/19/2002	FLFEE	Payment of additional filing fee/Preexam		123	3
4	09/19/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
3	02/19/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
2	02/07/2002		SCAN	IFW Scan & PACR Auto Security Review			0
79	01/30/2002		IDSC	Information Disclosure Statement considered			0
51	01/30/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
1	01/30/2002		IEXX	Initial Exam Team nn			0

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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)
6,872,958	2005-03-29	10/059,048	2002-01-28	

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	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

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.

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	/Lynn Barringer/	Date (YYYY-MM-DD)	2011-03-04
Name	Lynn Barringer		
Enter Reel and Frame Number		Remove	
Reel Number	024342	Frame Number	0790
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6872958
Issue Date: March 29,2005
Application No. 10059048
Filed: January 28,2002
Attorney Docket No. 58884-0269409

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 4,2011 ,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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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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: 7,060,213
Inventor: Tony PEARCE
Application No. 10/059,101
Filed: November 8, 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 not 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

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www.uspto.gov

POSZ LAW GROUP, PLC
12040 SOUTH LAKES DR.
SUITE 101
RESTON VA 20191

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Application of :
Tuz-Fen Chen :
Application No. 10/059,216 : NOTICE
Filed: January 31, 2002 :
Attorney Docket No. **100805-00007** :

This is a notice regarding your request filed June 21, 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 A. Justin Poplin 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, A. Justin Poplin 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 A. Justin Poplin, 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 patent 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

cc: A. Justin Poplin
Lanthrop & Gage LLP
2345 Grand Boulevard, Suite 2400
Kansas City, Missouri 64108

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROCKWELL COLLINS INC
INTELLECTUAL PROPERTY DEPARTMENT
400 COLLINS ROAD NE M/S 124-323
CEDAR RAPIDS IA 52498

MAILED

JAN 2 0 2011

OFFICE OF PETITIONS

In re Application of :
Toshifumi Komatsu, et al. :
Application No. 10/060,753 : DECISION ON PETITION
Filed: January 30, 2002 :
Attorney Docket No.: 970.0098US01 :

This is a decision in response to the petition, filed October 20, 2010, in the above-identified application requesting withdrawal of the holding of abandonment under the provisions of 37 CFR 1.181 (no fee). Alternatively, a petition to revive under the provisions of 37 CFR 1.137(b) is filed.

The petition under 37 CFR 1.181 is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

A review of the record discloses that the application was held abandoned failure to take appropriate action in a timely manner after the decision of December 17, 2009 by the Board of Patent Appeals and Interferences. A Notice of Abandonment was mailed on March 16, 2010. On October 20, 2010, the present petition was filed. Petitioner argues that the Notice of Abandonment issued is error, since no abandonment existed.

Petitioner is correct. In view of MPEP 1214.06 (III), the Office concedes that the Notice of Abandonment was mailed in error. Accordingly, the March 16, 2010 Notice of Abandonment is hereby vacated.

The application is being referred to the Technology Center technical support staff of Art Unit 1795 for withdrawing the holding of abandonment and for appropriate action by the Examiner in the normal course of business on the RCE filed October 20, 2010.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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PFIZER INC.
PATENT DEPARTMENT
Bld 114 M/S 9114
EASTERN POINT ROAD
GROTON CT 06340

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of	:	
McAllister et al.	:	
Application No.: 10/060849	:	ON PETITION
Filing or 371(c) Date: 01/30/2002	:	
Attorney Docket Number:	:	
PC19900B	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed August 8, 2011.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed January 27, 2011. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on April 28, 2011. A Notice of Abandonment was mailed August 4, 2011.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that the petition includes (1) the reply in the form of an Amendment; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1615 for processing of the response to the Office action filed with the petition 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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

MAILED

MAR 03 2011

OFFICE OF PETITIONS

In re Application of :
Mark MOZLEY, et al. :
Application No. 10/060,851 : ON PETITION
Filed: January 21, 2002 :
Attorney Docket No. 012615-1010 :

This is in response to the petition under 37 CFR 1.183, filed July 29, 2010, requesting waiver of the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed thereunder.

The petition is **granted to the extent *infra*.**

Petitioner asserts that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only Mark Mozley, Bill Pelfrey, Jennifer Pelfrey, and Donna Ames, have agreed to execute the declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to December 1, 2000.

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 of the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require Christina Reed 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 3693 for further examination on the merits.

Telephone inquiries regarding this decision should be directed the undersigned at (571) 272-7099.

David Buccl
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
390 LYTTON AVENUE
PALO ALTO, CA 94301

MAILED

MAR 16 2011

OFFICE OF PETITIONS

In re Application :
Anthony G. Martin :
Application No. 10/061,107 :
Filed: January 25, 2002 :
Attorney Docket No. CLAR 1048-1 :

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 February 8, 2011.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Sheppard, Mullin, Richter & Hampton LLP, was revoked as of record by the applicant on February 8, 2011, by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the below-listed address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: DAVIDSON BERQUIST JACKSON & GOWDEY, LLP
ATTN: CLARIA/DR. BRIAN SIRITZKY, ESQ.
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON, VA 22203

Doc Code: PET.AUTO **Document Description: Petition automatically granted by EFS-Web**	PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce

Electronic Petition Request	**REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS**
Application Number	10061107
Filing Date	25-Jan-2002
First Named Inventor	Anthony Martin
Art Unit	2442
Examiner Name	SHIRLEY ZHANG
Attorney Docket Number	4001-0014
Title	Presentation of information to end-users

◉ Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 91944

The reason(s) for this request are those described in 37 CFR:

10.40(b)(4)

Certifications

☒ I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment

☒ I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled

☒ I/We have notified the client of any responses that may be due and the time frame within which the client must respond

Change the correspondence address and direct all future correspondence to:
The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number: 86636

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Brian Siritzky/
Name	Brian Siritzky
Registration Number	37497

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 1, 2011

In re Application of :

Anthony Martin

Application No : 10061107

Filed : 25-Jan-2002

Attorney Docket No : 4001-0014

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY/AGENTOF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed December 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 86636 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 08/03/2010

Applicant	: Joseph Cheung	: DECISION ON REQUEST FOR
Patent Number	: 7649860	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/061,874	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **2327** 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

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BRYAN WITCHEY
209 FAIRWAY CIRCLE
CROSS JUNCTION VA 22625

MAILED
SEP 01 2011
OFFICE OF PETITIONS

In re Patent No. 6,519,983 :
Issue Date: February 18, 2003 :
Application No. 10/062,402 : ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 18082.04 :

This is a decision on the petition under 37 CFR 1.378(c), filed May 26, 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 19, 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 Andre Boyce at (571) 272-6726, or in his absence, the undersigned at (571) 272-7099.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRYAN WITCHEY
209 FAIRWAY CIRCLE
CROSS JUNCTION VA 22625

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent No. 6,539,757	:	
Issue Date: April 1, 2003	:	
Application No. 10/062,403	:	ON PETITION
Filed: February 5, 2002	:	
Attorney Docket No. 18082.05	:	

This is a decision on the petition under 37 CFR 1.378(c), filed May 26, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

This patent expired on April 2, 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 Terri Johnson at (571) 272-2991.

The patent file is being forwarded to Files Repository.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BRYAN WITCHEY
209 FAIRWAY CIRCLE
CROSS JUNCTION VA 22625

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,553,797 :
Issue Date: April 29, 2003 :
Application No. 10/062,432 : ON PETITION
Filed: February 5, 2002 :
Patentee(s) Bryan Witchey :

This is a decision on the petition under 37 CFR 1.378(c), filed May 26, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,188,100 :
Issue Date: March 6, 2007 :
Application No. 10/062,459 : ON PETITION
Filed: February 5, 2002 :
Patentee(s) Joseph De Bellis et al :

This is a decision on the petition under 37 CFR 1.378(c), filed May 9, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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DAVID J COLE
E INK CORPORATION
733 CONCORD AVE
CAMBRIDGE MA 02138-1002

MAILED

MAR 09 2011

OFFICE OF PETITIONS

In re Patent of Webber :
Patent No. 7,170,670 :
Issued: January 30, 2007 : NOTICE
Application No. 10/063,236 :
Filed: April 2, 2002 :
Attorney Docket No. H-317

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed February 4, 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) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Patent No. 7,867,215 : DECISION ON
Akerlund, et al. : REQUEST FOR RECONSIDERATION
Application No. 10/063,386 : of PATENT TERM ADJUSTMENT
Issue Date: January 11, 2011 : and
Filed: April 17, 2002 : NOTICE OF INTENT TO ISSUE
Attorney Docket No. 19497-0015001 : CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(d)", filed March 11, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand one hundred forty-five (1145) days to eight hundred seventy-eight (878) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

On January 11, 2011, the instant application matured into U.S. Patent No. 7,867,215 with a patent term adjustment of one thousand one hundred forty-five (1145) days. The Office determined a patent term adjustment of 1145 days based upon 545 days of Office delay pursuant to 37 CFR 1.703(a)(1), 692 days of Office delay pursuant to 37 CFR 1.703(a)(3), and 702 days of Office delay pursuant to 37 CFR 1.703(b), reduced by 84 days of Applicant delay under 37 CFR 1.704(b) and 248 days of Applicant delay under 37 CFR 1.704(c)(3).

The calculation of 702 days of "B" delay has been found to be incorrect. Applicants filed the application on April 17, 2002. As such, the over three year period began on April 18, 2005, and ended on August 13, 2007 (the day before Applicants filed an RCE on August 14, 2007). Accordingly, the number of days of "B" delay should have been calculated as 848 days, not 702 days. Patentees argument that no continued examination took place from the time they filed an RCE on August 30, 2010 to the issue date of the patent on January 11, 2011, has been considered, but is not persuasive.

The 692 days of Office delay under 37 CFR 1.703(a)(3) has been found to be incorrect. The Office mailed a non-final Office action on August 15, 2008, in response to an RCE filed on August 14, 2007 (filed together with a petition to revive). As such, two hundred forty-five (245) days of Office delay should have been assessed, not 692 days.

In addition, a review of the file reveals that Applicants were improperly assessed 248 days of Applicant delay under 37 CFR 1.704(c)(3). 37 CFR 1.704(c)(3) states that abandonment of the application will be considered to be a failure to engage in reasonable efforts to conclude prosecution of the application. The delay is calculated as such:

> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment** or the date after the date the issue fee was due and **ending on the earlier** of:
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
> (ii) **The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed** (emphasis added).

Here, the application became abandoned on May 31, 2006, for failure to timely reply to an Office action mailed on November 30, 2005 (applicants purchased the maximum obtainable three month extension of time). Applicants filed a grantable petition to revive on August 14, 2007. As the Office did not mail a decision within four months, the date that is four months after the grantable petition was filed was December 15, 2007. The number of days from May 31, 2006 to December 15, 2007 is five hundred sixty-four (564) days. Accordingly, 564 days of Applicant delay should have been assessed under 37 CFR 1.704(c)(3), not 248 days.

In addition, Patentees state that they should have also been assessed 253 days under 37 CFR 1.704(c)(8) for filing a supplemental IDS on April 23, 2008, subsequent to their RCE filed on August 14, 2007. However, 37 CFR 1.704(c) states that applicant delay will be assessed, only to the extent that multiple periods are not overlapping. This period of delay overlapped with the 37 CFR 1.704(c)(3) day from April 23, 2008 to December 15, 2007. As such, the only delay that should have been assessed under 37 CFR 1.704(c)(8) ran from December 16, 2007 to April 23, 2008, a period of one hundred thirty (130) days.

Patentees also state that they should have been assessed 38 days of Applicant delay for filing another supplemental IDS on May 21, 2009, subsequent to a reply having been filed on April 13, 2009. The Office agrees with Patentees' calculation, and thanks them for their good faith and candor.

Moreover, Applicants should have been assessed twenty-three (23) days of delay pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on February 25, 2010. In reply, Applicants filed an RCE on April 29, 2010, to which the Office responded by mailing another Notice of Allowance on May 23, 2010. Accordingly, under 37 CFR 1.704(c)(10), 23 days of Applicant delay should have been assessed for this RCE.

Lastly, Applicants should have been assessed fourteen (14) days of Applicant delay for another instance under 37 CFR 1.704(c)(10). Applicants filed an RCE on August 17, 2010, in reply to the May 23, 2010 Notice of Allowance. The Office responded by mailing a new Notice of Allowance on August 30, 2010. Accordingly, under 37 CFR 1.704(c)(10), 14 days of Applicant delay should have been assessed for this RCE.

In view thereof, the correct number of days of patent term adjustment is **eight hundred sixty-nine (869)** days (790 (545+245) days of "A" delay and 848 days of "B" delay, reduced by 769 (564+130+38+23+14) days of Applicant delay and 25 days of overlap between "A" and "B" delay).

The application is being forwarded to the Certificate 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 **eight hundred sixty-nine (869) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,867,215 B2

DATED : **January 11, 2011**

INVENTOR(S) : Akerlund 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 1145 days.

Delete the phrase "by 1145 days" and insert – by 869 days--

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)
7164961	2007-01-16	10064156	2002-06-14	033773.177

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael A. Makuch/	Date (YYYY-MM-DD)	2011-06-30
Name	Michael A. Makuch	Registration Number	32263

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7164961
Issue Date: January 16,2007
Application No. 10064156
Filed: June 14,2002
Attorney Docket No. 033773.177

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 30,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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MAILED
OCT 04 2011
OFFICE OF PETITIONS

SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON DC 20036

In re Patent No. 7,164,961
Issue Date : January 14, 2002
Application No. 10/064,156
Filed: June 14, 2002
Attorney Docket No. 033773.177

ON PETITION

This is a decision on the petition filed July 8, 2011 to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that certain documents filed June 29, 2011 be expunged from the record. Petitioner states that the information submitted was erroneously filed in the instant application and was clearly identified as belonging in another application.

A review of the file shows the information was clearly intended to be filed in an unrelated application.

The expunged material has been removed from the official file.

In accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application. Therefore, the petition fee is refunded to petitioner.

Telephone inquiries relative to this decision should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

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Paper No.

NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Patent No. 7,254,144 :
Issue Date: 08/07/2007 :
Application Number: 10/064,204 :
Filing or 371(c) Date: 06/21/2002 :
Attorney Docket Number: ASTP0025USA :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on February 2, 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.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas Wood
Attorney
Office of Petitions

cc: KLEIN, O'NEILL & SINGH, LLP
18200 VON KARMAN AVE, STE. 725
IRVINE CA 92612

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,439	07/14/2002	Scott C. Harris	DIY-C1	2498

23844 7590 02/10/2011

SCOTT C HARRIS
Law Office of Scott C Harris, Inc
P O BOX 1389
Rancho Santa Fe, CA 92067-1389

EXAMINER	
FU, HAO	

ART UNIT	PAPER NUMBER
3693	

NOTIFICATION DATE	DELIVERY MODE
02/10/2011	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):

scott@harrisles.com
schuspto@gmail.com

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FEB - 8 2011

SCOTT C HARRIS
Law Office of Scott Harris, Inc
PO Box 1389
Rancho Santa Fe, CA 92067-1389

In re Application of
Scott Harris
Application No. 10/064,439
Filed: July 14, 2002
For: WEB BASED COMMUNICATION OF INFORMATION WITH RECONFIGURABLE FORMAT

DECISION ON PETITION
UNDER 37 CFR §1.181

This is a decision on applicant's petition under 37 CFR 1.181 filed September 27, 2010 requesting that the amendment after final of June 25, 2010 be entered.

The petition is **GRANTED** to the extent indicated below.

In the petition filed under 37 CFR 1.181 on January 15, 2008 applicant requests the amendment submitted on June 25, 2010 be entered into the file.

Applicant argues that the refusal to enter the amendment is unfair because the amendment places the case in better condition for appeal and did not raise new issues.

The record reflects that;
On March 25, 2010 a final Office action was mailed with the following rejections:

- Claims 2-16 and 65-69 under 35 U.S.C. 112, first paragraph
- Claims 18 and 22-32 under 35 U.S.C. 101
- Claims 2-16, 18, 22-32, and 65-69 under 35 U.S.C. 103(a)

On June 25, 2010 applicant filed an amendment after final.

On July 26, 2010 applicant filed a notice of appeal.

On July 26, 2010 an advisory action was issued by the examiner refusing to enter the June 25, 2010 amendment after final. In the action the examiner states, "Applicant's amendment filed on 6/25/2010 would overcome the previous rejections based on U.S.C.

112 and U.S.C. 101. However, Examiner respectfully disagrees with the arguments regarding the rejections based on U.S.C. 103."

MPEP 714.13 states, "It should be kept in mind that applicant cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (see 37 CFR 1.116) or reinstate previously canceled claims.
Except where an amendment merely cancels claims, adopts examiner suggestions, ***removes issues for appeal***, or in some other way requires only a cursory review by the examiner, compliance with the requirement of a showing under 37 CFR 1.116(b)(3) is expected in all amendments after final rejection."

Applicant's request to have the amendment after final of June 25, 2010 entered is hereby **GRANTED** because, as stated by the Examiner in Advisory Action, "Applicant's amendment filed on 06/25/2010 would overcome the previous rejections based on U.S.C. 112 and U.S.C. 101" and accordingly the amendment serves to only remove issues (i.e. the rejections under 35 U.S.C. 112 and 101) for appeal.

The petition is **GRANTED** to the extent indicated above.

Any questions regarding this decision should be directed to James Kramer at (571) 272-6783.

Wynn Coggins, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5350

jak: 02/08/2011

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Commissioner for Patents
United States Patent and Trademark Office
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MAILED

JUN 06 2011

OFFICE OF PETITIONS

RICHARD FLETCHER
TAGSENSE, INC.
432 COLUMBIA STREET, STE B13B
CAMBRIDGE MA 02141

In re Patent No. 6,891,474 :
Issue Date: May 10, 2005 :
Application No. 10/064,633 : ON PETITION
Filed: August 1, 2002 :
Attorney Docket No. TAGSENSE/ID :

This is a decision on the petition under 37 CFR 1.378(c), May 3, 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 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 provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

The patent file is being forwarded to Files Repository.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

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)
6675584	2004-01-13	10064768	2002-08-15	PSSF.167416

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required 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 R. MACK/	Date (YYYY-MM-DD)	2012-03-09
Name	BRIAN R. MACK	Registration Number	48253

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when 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. 6675584
Issue Date: January 13,2004
Application No. 10064768
Filed: August 15,2002
Attorney Docket No. PSM-055

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed March 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 March 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.

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NORTH AMERICA INTELLECTUAL PROPERTY CORPORATION
P.O. BOX 506
MERRIFIELD VA 22116

MAILED

SEP 2 8 2010

OFFICE OF PETITIONS

In re Application of :
Richard Lee-Chee Kuo :
Application No. 10/064,778 : NOTICE
Patent No. 7,054,306 :
Filed: August 16, 2002 :
Attorney Docket No. **ASTP0028USA**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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: **SANG N. DANG**
KLIEN, O'NEIKK & SINGH, LLP
18200 VON KARMAN AVENUE, SUITE 725
IRVINE CA 92612

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: 020103	Patent Number: 7,657,241
Filing Date (or 371(b) or (f) Date): 02-01-2002	Issue Date: 2-2-2010
First Named Inventor: Peter Jivan Shah	
Title: DISTORTION REDUCTION CALIBRATION	

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 /Ramin Mobarhan, Reg# 50,182/	Date 07-30-2010
Name (Print/Typed) Ramin Mobarhan (for William M. Hooks)	Registration Number 50182

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 1 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.

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.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **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 this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 09/13/2010

Applicant	: Peter Jivan Shah	: DECISION ON REQUEST FOR
Patent Number	: 7657241	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/066,115	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **352** 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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Dr. Daniel P. Morris, Esq.
IBM Corporation
Intellectual Property Law Department
P.O. Box 218
Yorktown Heights NY 10598

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Application of :
Brian Samuel Beaman et al. :
Application No. 10/066,171 :
Filed: February 1, 2002 :
Attorney Docket No. YOR919960186US2 :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the non-final Office action mailed August 17, 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 on November 18, 2010. A Notice of Abandonment was mailed on March 1, 2011.

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. Accordingly, the amendment is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1723 for appropriate action by the Examiner in the normal course of business on the reply received July 6, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MAYER BROWN, LLP
PO BOX 2828
CHICAGO, IL 60690

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Ji Yong Kim, et al.
Application No. 10/066,749
Filed: February 6, 2002
Attorney Docket No. P67577US0

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 5, 2010.

The request is **NOT APPROVED**.

The Office will not decide request to withdraw from representation as practitioner of record which are filed after the patent has issued. Sections 2540 and 2542 of the Manuel of Patent Procedures (MPEP explain that a practitioner does not have to request permission to withdraw as practitioner of record under 37 CFR 1.36 in order to change the address in a patented filed and to directed notices, receipts and other communications relating to maintenance fees. These requests will be placed in the application but will not be treated on their merits. The above mentioned sections of the MPEP recommend the designation of a fee address or submission of a change in correspondence address in the patented file for directing correspondence relating to maintenance fee payments and other correspondences after issuance. See Form PTO/SB/47, entitled, *"Fee Address" Indication Form* and Form PTO/SB/123, entitled, *Change of Correspondence Address, Patent*

Accordingly, the request to withdraw from record cannot be approved because the request does not include an acceptable current correspondence address for future communications from the Office.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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OCT 28 2011
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McAfee-Wong Cabello Lutsch
Rutherford & Brucculeri, LLP
20333 Tomball Pkwy, 6th Floor
Houston TX 77070

In re Application of :
Deshmukh et al. :
Application No. 10/067,319 : ON APPLICATION FOR
Filed: February 7, 2002 : PATENT TERM ADJUSTMENT
Docket No. 01.261.01 (920-0150US) :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 4, 2011. The petition will be treated under 37 C.F.R. 1.705(b).

The request for review of the patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **two thousand six hundred forty (2640) days**. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On September 28, 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 is 3258 days. On October 4, 2011, applicants submitted the instant petition. Applicants disclose that they believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment is incorrect and should be recalculated due to the Office counting overlapping days during the successful appeal period under 37 CFR 1.702(e) twice.

A review of the patent term adjustment calculations for the above-identified application reveals that the Office counted 618 overlapping days during the successful appeal period twice. The Office assessed a 618 day adjustment pursuant to 37 CFR 1.702(a)(2) for the delay in mailing an Examiner's Answer on February 12, 2009 in response to the Appeal Brief, filed

February 5, 2007. However, the entire 37 CFR 1.702(a)(2) adjustment period of 618 days overlaps with the successful appeal period under 37 CFR 1.702(e), beginning with the filing of a Notice of Appeal on September 29, 2006 and ending on August 15, 2011 with the mailing of a decision by the BPAI reversing the examiner. Accordingly, the period of adjustment of 618 days will be removed.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **two thousand six hundred forty (2640) days** (2640 days of Office delay - 0 days of Applicant delay).

The Office acknowledges receipt of the required $200.00 fee under 37 CFR 1.18(e) is required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

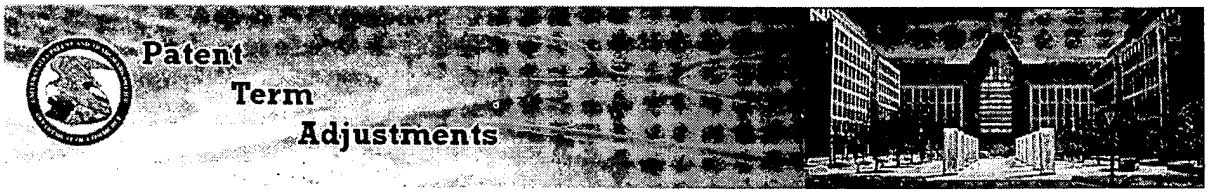
The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen for Application No. 10/067,319



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10067319 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10067319

Application Filing Date	02/07/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	3258
A Delays	1476	PTO Manual Adjustment	-618
B Delays	0	Applicant Delay (APPL)	0
C Delays	1782	Total PTA (days)	2640

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
88	10/12/2011		P028	Adjustment of PTA Calculation by PTO		618	0
83	09/28/2011		MN/=.	Mail Notice of Allowance			0
82	09/23/2011		OAR	Office Action Review			0
81	09/23/2011		OAR	Office Action Review			0
80	09/23/2011		DVER	Document Verification			0
79	09/23/2011		IREV	Issue Revision Completed			0
78	09/23/2011		N/=.	Notice of Allowance Data Verification Completed			0
77	09/22/2011		EX.R	Reasons for Allowance			0
76	09/22/2011		CNTA	Allowability Notice			0
73	08/15/2011		ELC_RVW	Electronic Review			0
72	08/15/2011		EML_NTF	Email Notification			0
71	08/15/2011	09/29/2006	MAPDR	Mail BPAI Decision on Appeal - Reversed	1782		33
70	08/11/2011		APDR	BPAI Decision - Examiner Reversed			0
69	04/04/2011		EML_NTR	Email Notification			0
68	04/04/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
67	03/31/2011		C.AD	Correspondence Address Change			0
66	06/03/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
65	06/03/2009		APAS	Assignment of Appeal Number			0
64	04/21/2009		APWD	Appeal Awaiting BPAI Docketing			0
63	04/20/2009		MRBNE	Mail Reply Brief Noted by Examiner			0
62	04/17/2009		RBNE	Reply Brief Noted by Examiner			0
61	04/16/2009		FWDX	Date Forwarded to Examiner			0
60	04/13/2009		APRB	Reply Brief Filed			0
59	02/27/2009		PACC	Exam. Ans. Review Complete			0
58	02/12/2009	06/05/2007	MAPE2	Mail Supplemental Examiner's Answer	618		41
57	02/12/2009		APE2	2nd or Subsequent Examiner's Answer to Appeal Brief			0
56	12/30/2008		APBR	Appeal Brief Review Complete			0
55	12/30/2008		FWDX	Date Forwarded to Examiner			0
54	12/01/2008		RPEA	Resp. to post-examiner ans			0
53	10/31/2008		MPEAC	Mail Post-examiner ans. com			0
52	10/30/2008		PEAC	Post-examiner ans. com			0
51	10/21/2008		APRD	Order Returning Undocketed Appeal to the Examiner			0
50	10/06/2008		DOCK	Case Docketed to Examiner in GAU			0
49	08/12/2008		APWD	Appeal Awaiting BPAI Docketing			0
48	05/19/2008		ARBP	Appeal ready for BPAI review			0
46	06/26/2007		PACC	Exam. Ans. Review Complete			0
45	05/29/2007		MAPEA	Mail Examiner's Answer			0
44	05/24/2007		APEA	Examiner's Answer to Appeal Brief			0
43	04/07/2007		APBR	Appeal Brief Review Complete			0
42	04/07/2007		FWDX	Date Forwarded to Examiner			0
41	02/05/2007		AP.B	Appeal Brief Filed			0
40	01/08/2007		APBD	Notice -- Defective Appeal Brief			0
39	01/06/2007		APBR	Appeal Brief Review Complete			0
38	01/06/2007		FWDX	Date Forwarded to Examiner			0
37.1	11/29/2006		APBI	Defective / Incomplete Appeal Brief Filed			0
37	11/29/2006		AP.B	Appeal Brief Filed			0
36	11/29/2006		XT/G	Request for Extension of Time - Granted			0
33	09/29/2006		N/AP	Notice of Appeal Filed			0
32	08/01/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0
31	07/24/2006		CTFR	Final Rejection			0
30	06/15/2006		FWDX	Date Forwarded to Examiner			0
29	06/02/2006		A...	Response after Non-Final Action			0
28	03/27/2006		MCTNF	Mail Non-Final Rejection			0
27	03/20/2006		CTNF	Non-Final Rejection			0
26	03/14/2006		FWDX	Date Forwarded to Examiner			0
24	03/14/2006		ABN9	Disposal for a RCE / CPA / R129			0

25	02/27/2006		RCEX	Request for Continued Examination (RCE)		0
23	02/27/2006		BRCE	Workflow - Request for RCE - Begin		0
22	02/15/2006		MCTAV	Mail Advisory Action (PTOL - 303)		0
21	02/10/2006		CTAV	Advisory Action (PTOL-303)		0
20	02/04/2006		FWDX	Date Forwarded to Examiner		0
19	01/24/2006		A.NE	Amendment after Final Rejection		0
18	12/23/2005		MCTFR	Mail Final Rejection (PTOL - 326)		0
17	12/20/2005		CTFR	Final Rejection		0
16	12/07/2005		DOCK	Case Docketed to Examiner in GAU		0
15	12/02/2005		FWDX	Date Forwarded to Examiner		0
14	11/10/2005		A...	Response after Non-Final Action		0
13	08/12/2005	04/07/2003	MCTNF	Mail Non-Final Rejection	858	0.5
12	08/08/2005		CTNF	Non-Final Rejection		0
11	07/25/2005		DOCK	Case Docketed to Examiner in GAU		0
10	04/01/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
9	02/08/2005		DOCK	Case Docketed to Examiner in GAU		0
8	11/12/2002		DOCK	Case Docketed to Examiner in GAU		0
7	10/04/2002		DOCK	Case Docketed to Examiner in GAU		0
6	05/05/2002		DOCK	Case Docketed to Examiner in GAU		0
5	03/04/2002		OIPE	Application Dispatched from OIPE		0
4	02/27/2002		COMP	Application Is Now Complete		0
2	02/15/2002		SCAN	IFW Scan & PACR Auto Security Review		0
1	02/07/2002		IEXX	Initial Exam Team nn		0
0.5	02/07/2002		EFILE	Filing date		0

Export to: Excel

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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)
6470618	2002-10-29	10067557	2002-02-07	4245P2433

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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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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.

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	/David White/	Date (YYYY-MM-DD)	2010-12-21
Name	David White		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 6470618
Issue Date: October 29,2002
Application No. 10067557
Filed: February 7,2002
Attorney Docket No. 4245P2433

:
: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)
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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)
6597573	2003-07-22	10067590	2002-02-04	2202

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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

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.

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	/Wendy L. Wallace/	Date (YYYY-MM-DD)	2011-08-31
Name	Wendy L. Wallace		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

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1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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In re Patent No. 6597573
Issue Date: July 22,2003
Application No. 10067590
Filed: February 4,2002
Attorney Docket No. 2202

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 31,2011 ,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 31,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

RATNERPRESTIA
P.O. BOX 1596
WILMINGTON DE 19899

In re Patent No. 6,731,405 :
Issue Date: May 4, 2004 :
Application No. 10/067,619 : NOTICE
Filed: February 4, 2002 :
Attorney Docket No. ESKO-020US2

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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.
10/067,875	02/05/2002	Timothy R. Kane	END920020006US1	6282

45092 7590 09/24/2010

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY, NY 12207

EXAMINER	
LIN, KENNY S	

ART UNIT	PAPER NUMBER
2452	

NOTIFICATION DATE	DELIVERY MODE
09/24/2010	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):

PTOCommunications@hoffmanwarnick.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

HOFFMAN WARNICK LLC
75 STATE ST
14TH FLOOR
ALBANY NY 12207

In re Application of: Timothy R. KANE, et al.
Application No. 10/067,875
Filed: February 05, 2002
For: SYSTEM AND METHOD FOR ROUTING DATA BY A SERVER

DECISION SUA SPONTE WITHDRAWING HOLDING OF ABANDONMENT

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely file a reply to the Board of Patent Appeals and Interferences Decision mailed July 13, 2010. The Notice of Abandonment was mailed on Sept 21, 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 Sept 13, 2010 was timely filed based upon the mailing date of Board decision. Thus, the Notice of Abandonment mailed Sept 21, 2010 was premature.

Although no petition or request to withdraw the holding of abandonment in this application has been filed, **the holding of Abandonment is hereby withdrawn.**

The application is being forwarded to the appropriate personnel for processing the Request for Continued Examination filed Sept 13, 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
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P.O. Box 1450
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STACEY J. LONGANECKER
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
SUITE 600
1300 19TH STREET, N.W.
WASHINGTON DC 20036

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Patent No. 7,200,142 :
Issue Date: April 03, 2007 :
Application No. 10/067,968 : DECISION ON PETITION
Filed: February 08, 2002 :
Attorney Docket No. 43459 :

This is a decision on the petition under 37 CFR 1.378(c), filed May 11, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

This patent expired on April 03, 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.

Telephone inquiries concerning this decision should be directed to the Michelle R. Eason at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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)
6656239	2003-12-02	10068075	2002-02-05	07620013AA

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required 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 D Lane/	Date (YYYY-MM-DD)	2011-12-29
Name	Philip D Lane	Registration Number	41140

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6656239
Issue Date: December 2,2003
Application No. 10068075
Filed: February 5,2002
Attorney Docket No. 1560(TOUCHSTONE)

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 29,2011 ,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 29,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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.
10/068,299	02/06/2002	Fiona M. Wood	127630-010100/US	8540

35893 7590 11/05/2010

GREENBERG TRAURIG, LLP
ONE INTERNATIONAL PLACE, 20th FL
ATTN: PATENT ADMINISTRATOR
BOSTON, MA 02110

EXAMINER	
BARNHART, LORA ELIZABETH	
ART UNIT	**PAPER NUMBER**
1651	

NOTIFICATION DATE	DELIVERY MODE
11/05/2010	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):

BosIpMail@gtlaw.com
santosv@gtlaw.com
cadanoc@gtlaw.com

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NOV 0 5 2010

GREENBERG TRAURIG, LLP
ONE INTERNATIONAL PLACE, 20th FL
ATTN: PATENT ADMINISTRATOR
BOSTON MA 02110

In re Application of :
Wood et al. :
Serial No.: 10/068,299 : Decision on Petition
Filed: February 6, 2002 :
Attorney Docket No.: **127630-010100/US** :

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on October 8, 2010 to reverse the examiner's refusal to enter the after final amendment mailed September 8, 2010 and to withdraw the finality of September 9, 2010.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a non-final Office action on December 30, 2009. Claims 29, 34-63, 65, 67-79 were pending and claims 29, 61, 63, 65 and 75-79 were rejected. Claims 34-60, 62 and 67- 74 were withdrawn from consideration. Claims 29, 61, 63, 65, and 75-79 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Claims 29, 61,63, 65, and 75-79 were rejected under 35 U.S.C. 102(b) as being anticipated by Noel-Hudson et al taken in light of Van Bossuyt. Claims 29, 61, 63, and 75-79 were also rejected under 35 U.S.C. 102(b) as being anticipated by Hirobe.

In response thereto, applicants submitted amendments and remarks on April 29, 2010 addressing the rejections set forth in the Office action of December 30, 2009.

The examiner mailed to applicants a final Office action on July 9, 2010. Claims 29, 34-63, 65, 67-79 were pending and claims 29, 61, 63, 65 and 75-79 were again rejected. Claims 34-60, 62 and 67- 74 were withdrawn from consideration. Claims 29, 61, 63, and 75-79 are rejected under 35 U.S.C. 102(b) as being anticipated by Baur et al. Claim 65 is rejected under 35 U.S.C. 102(b) as being anticipated by Baur et al. taken in light of Hart. Claims 29, 61,63, 65, and 75-79 are

rejected under 35 U.S.C. 103(a) as being unpatentable over Baur et al. taken in view of Lucas et al. and Hart.

On September 9, 2010, applicants submitted an after final amendment including claim amendments and remarks.

On September 22, 2010, the examiner mailed to applicants an advisory action indicating that the after final amendment would not be entered because new issues requiring new search and consideration would be raised, issues of new matter would be raised and the amendment did not simplify the issues for appeal.

On October 8, 2010, applicants submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that "the Examiner cited a new piece of art to reject a previously presented claim element." More specifically, applicants argue "In the Final Office Action dated July 9, 2010, the Examiner stated that "[t]he claim amendments require for the first time that the composition contain a population comprising keratinocyte basal cells, melanocytes, and fibroblasts; previously, all that was required was that the cells be viable. The new rejections were necessitated by the amendments to the independent claims." Final Office Action dated July 9, 2010 at page 6, emphasis added (see Exhibit D). Applicants respectfully disagree. The recitation of keratinocyte basal cells, melanocytes, and fibroblasts was not presented for the first time in the Amendment and Response filed April 29, 2010 (see Exhibit C). Rather, the recitation was presented in the preceding Amendment and Response filed October 19, 2009 (see Exhibit A) and considered by the Examiner as a claim limitation in the Non-Final Office Action dated December 30, 2009 (see Exhibit B)." Finally, applicants reiterate "From the above prosecution history, it is clear that the recitation ofkeratinocyte basal cells, melanocytes, and fibroblasts was previously presented for examination (i.e., in the Amendment and Response filed October 19, 2009) and previously considered by the Examiner as a claim limitation (i.e., in the Non-Final Office Action dated December 30, 2009). Specifically, one of ordinary skill in the art would understand that in the claims dated October 19, 2009, "a ratio of keratinocyte basal cells, fibroblasts and melanocytes present in said tissue sample" necessarily requires the presence of all three cell types, because keratinocyte basal cells, fibroblasts and melanocytes are necessarily present in a dermal-epithelial (i.e., skin) tissue sample. This position is in agreement with the Examiner's finding that skin contains keratinocytes, melanocytes, and fibroblasts. See Non-Final Office Action dated December 30, 2009 at page 6. Thus, the recitation ofkeratinocyte basal cells, melanocytes, and fibroblasts was previously presented in the Amendment and Response filed October 19, 2009, and cannot be reasonably said to be presented for the first time in the Amendment and Response filed April 29, 2010."

Applicants' arguments have been accorded careful consideration but they are not persuasive that the examiner erred in making the Office action of July 9, 2010 final or by not entering the amendment after final of September 9, 2010. Specifically, the finality of the Office action of July 9, 2010 was proper because although the words "keratinocyte basal cells, melanocytes, and fibroblasts" appeared in the claims of October 19, 2009, those claims did not actually require the sample to contain all three types of cells. The October 19, 2009 claims required that the composition comprise a ratio of these cells "comparable" to the ratio found in a skin sample, but the claims set forth no basis for comparison and did not actually require that the skin sample be one that contained all three. The claim amendments of April 29, 2010 now clearly and specifically require the composition to comprise all three cell types, not just to have "a ratio" of the cell types that is somehow "comparable" to the "ratio" in another sample. Accordingly, the finality of the Office action of July 9, 2010 is deemed proper and the examiner's refusal to enter the amendment of September 9, 2010 is also deemed proper.

DECISION

The petition is **DENIED.**

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision, please contact Special Program Examiner Marianne Seidel, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Jackie Stone
Technology Center 1600

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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Patent No.7,006,008 :
Issue Date: February 28, 2006 :
Application No. 10/069,372 : ON PETITION
Filed: June 24, 2002 :
Attorney Docket No. **BERVOETS=2** :

This is a decision on the petition filed May 10, 2011, 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**.

Petitioner states that the correct assignee's name is "AMB-IT Holding B.V., MB Heemstede (NL)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. 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.

JoAnne Burke
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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JUN 13 2011

OFFICE OF PETITIONS

J. MICHAEL NEARY
53939 PINE GROVE ROAD
LA PINE, OR 97739

In re Patent No. 6,886,986 :
Issue Date: May 3, 2005 :
Application No. 10/069,384 : ON PETITION
Filed: February 19, 2002 :
Attorney Docket No.: NI1517US :

This is a decision on the petition, filed April 26, 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 May 3, 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 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that 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. Petitioner is reminded, however, that the mere filing of a change of correspondence address does not affect fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, an appropriate "fee address" and/or "customer number" form should be submitted to the Maintenance Fee Division. A courtesy copy of this decision is being mailed to the address given on the petition.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: GERALD J. JULIEN
2507 SO 371 PL
FEDERAL WAY, WA 98003

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JAN 24 2011
OFFICE OF PETITIONS

Paper No.

MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of	:	
Nemoto et al.	:	
Application No. 10/069,732	:	DECISION ON PETITION
Patent No. 7,688,685	:	PURSUANT TO
Filed: February 26, 2002	:	37 C.F.R. § 1.181
Issued: March 30, 2010	:	
Attorney Docket No.: ASA-1074	:	
Title: MAGNETO-OPTICAL	:	
RECORDING DEVICE CAPABLE OF	:	
CHANGING THE SHAPES OF HEATING	:	
AREAS	:	

BACKGROUND

This is a decision on the petition filed October 8, 2010, requesting that the above-identified patent be accorded a filing date of February 28, 2002.

The application was deposited on February 26, 2002, and a notice of acceptance of application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 was mailed on May 2, 2002, indicating that the date of receipt of all 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and all 35 U.S.C. requirements, was February 26, 2002.

With this petition, Petitioner has asserted that this application was deposited on February 28, 2002. Petitioner has included a date-stamped postcard receipt, which contains a date-stamp from the Office of Initial Patent Examination dated "Feb 28 2002"

along with the following pre-printed text: "[f]iled: February 28, 2002."

APPLICABLE PORTION OF THE MPEP

37 CFR 1.181, Petition to the Director, states, *in pertinent part*:

> (a) Petition may be taken to the Director:
>
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
>
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
>
> (3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.
>
> (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. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Emphases added.

ANALYSIS

A review of Office records reveals that the application was prosecuted using February 26, 2002 as the filing date. As such, the Applicant was aware of and accepted the filing date of the application, now U.S. Patent No. 7,688,685, as February 26, 2002. Moreover, the patent issued more than six months before the filing of the present petition, and the public has a right to rely upon the filing date of the application as shown in Office records since February 26, 2002. Finally, Applicant does not assert that the validity of the patent is affected by the filing date of February 26, 2002.

CONCLUSION

In view of the foregoing, and no objection having been received within two months of the date of the patent having issued with the filing date of February 26, 2002, the present petition requesting a change in Office records to reflect the filing date of the present patent to February 28, 2002, is dismissed as untimely.

This petition is **DISMISSED.**

The certificate of correction dated June 8, 2010 is hereby **VACATED.**

The filing date for the application from which this patent issued remains February 26, 2002.

Petitioner may wish to seek either reexamination or reissue as a means of correcting the filing date. Petitioner will note that these avenues are cited merely as a courtesy to Petitioner, and this reference should not be misinterpreted as a commentary on the likelihood of whether or not either avenue would be successful.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.[1]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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Paper No.

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MAY 18 2011

OFFICE OF PETITIONS

MATTINGLY & MALUR, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA VA 22314

In re Application of	:	
Nemoto et al.	:	
Application No. 10/069,732	:	DECISION ON RENEWED
Patent No. 7,688,685	:	PETITION PURSUANT TO
Filed: February 26, 2002	:	37 C.F.R. § 1.181
Issued: March 30, 2010	:	
Attorney Docket No.: ASA-1074	:	
Title: MAGNETO-OPTICAL	:	
RECORDING DEVICE CAPABLE OF	:	
CHANGING THE SHAPES OF HEATING	:	
AREAS	:	

This is a decision on the renewed petition filed March 24, 2011, requesting that the above-identified patent be accorded a filing date of February 28, 2002.

The renewed petition pursuant to 37 C.F.R. § 1.181 is **DENIED**.[1]

No further reconsideration or review of this matter will be undertaken.

BACKGROUND

The application was deposited on February 26, 2002, and a notice of acceptance of application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495 was mailed on May 2, 2002, indicating that the date of receipt of all 35 U.S.C. 371(c)(1), (c)(2), and (c)(4), and all 35 U.S.C. requirements, was February 26, 2002.

1 This decision may be regarded as a final agency action within the meaning of 5 U.S.C. § 704 for the purposes of seeking judicial review. See MPEP § 1002.02.

An original petition pursuant to 37 C.F.R. § 1.181 was filed on October 8, 2010, where Petitioner asserted that this application was deposited on February 28, 2002. Petitioner included a date-stamped postcard receipt, which contains a date-stamp from the Office of Initial Patent Examination dated "Feb 28 2002" along with the following pre-printed text: "[f]iled: February 28, 2002."

The original petition was dismissed via the mailing of a decision on January 24, 2011.

APPLICABLE PORTION OF THE MPEP

37 C.F.R. § 1.181, states, *in pertinent part*:

> (a) Petition may be taken to the Director:
>
> (1) From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
>
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
>
> (3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.
>
> (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. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

Emphases added.

ANALYSIS

With this renewed petition, Petitioner asserts that "Patentee did not realize the error in the Patent Office records until the patent issued."[2] It is noted that Petitioner does not dispute the fact that the application was prosecuted using February 26, 2002 as the filing date.

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2 Renewed petition, page 5.

It is further noted that Applicant placed a filing date of "February 28, 2002" on the papers which were included on initial deposit, received a "notice of acceptance of application under 35 U.S.C. 371 and 37 CFR 1.494 or 1.495" which contains a date of "02/26/2002," placed a filing date of "February 28, 2002" on the response to the restriction requirement which was submitted on April 26, 2005, and then placed a filing date of February 26, 2002 on further submissions to the Office.[3] As such, it is clear that "Applicant was aware of and accepted the filing date of the application, now U.S. Patent No. 7,688,685, as February 26, 2002," as indicated on page 2 of the decision on the original petition.

The decision on the original petition further indicated that "the patent issued more than six months before the filing of the present petition, and the public has a right to rely upon the filing date of the application as shown in Office records since February 26, 2002."[4] With this renewed petition, nothing has changed: 37 C.F.R. § 1.181(f) explicitly requires any petition pursuant to Rule 1.181 to be filed within two months of the action from which relief is requested. It is noted that the action being complained against is the according of the filing date which occurred in February 28, 2002. Accordingly, any petition requesting that the filing date be changed should have been filed April 28, 2002. The present petition is untimely.

Finally, the decision on the original petition indicated "Applicant does not assert that the validity of the patent is affected by the filing date of February 26, 2002."[5] This point has not been addressed on renewed petition.

CONCLUSION

In view of the foregoing, and no objection having been received within two months of the date of the patent having issued with the filing date of February 26, 2002 via the submission of a timely petition pursuant to Rule 1.181, the renewed petition requesting a change in Office records to reflect the filing date of the present patent to February 28, 2002 is denied as untimely.

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3 See the submissions of November 4, 2005, April 6, 2006, November 13, 2006, July 13, 2007, December 4, 2007, June 18, 2008, January 26, 2009, February 25, 2009, and September 8, 2009.
4 Decision on original petition, page 2.
5 Id.

The filing date for the application from which this patent issued remains February 26, 2002.

Petitioner may wish to seek either reexamination or reissue as a means of correcting the filing date. Petitioner will note that these avenues are cited merely as a courtesy to Petitioner, and this reference should not be misinterpreted as a commentary on the likelihood of whether or not either avenue would be successful.

Telephone inquiries **regarding this decision** should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[6]

Anthony Knight
Director
Office of Petitions

6 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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Jonathan P Meyer
Motorola Inc
Intellectual Property Section Law Department
1303 East Algonquid Road
Schaumburg IL 60196

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of :
Catherine Mary Dolbear et al. :
Application No. 10/070,069 :
Filed: March 4, 2002 :
Attorney Docket No. CM00740P :

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 31, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 12, 2010. Accordingly, the date of abandonment of this application is June 15, 2010. A Notice of Abandonment July 1, 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 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101123

DATE : October 08, 2010

TO SPE OF : ART UNIT 3761

SUBJECT : Request for Certificate of Correction on Patent No.: 7022100

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:

/PATRICIA M BIANCO/
Supervisory Patent Examiner.Art Unit 3772

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Paper No. 10

DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO ON M5H 2L7
CANADA

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Patent No. 6,648,330	:	
Issue Date: 11/18/2003	:	
Application Number: 10/071,093	:	DECISION ON PETITION
Filing Date: 02/11/2002	:	
Attorney Docket Number: JJ-11 028US	:	

This is a decision on the petition filed on September 10, 2010, under 37 CFR § 1.378(b) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

The patent issued November 18, 2003. The first maintenance fee could have been paid from November 18, 2006, through May 18, 2007, or, with a surcharge during the period from May 19 through November 18, 2007. Accordingly, the patent expired at midnight

on November 18, 2007, for failure to timely submit the maintenance fee.

Petitioner, patentee Michael Porter, asserts, in pertinent part:

> In late March, 2007, Petitioner received a letter from Dennison Associates regarding the payment of the maintenance fee for the U.S. Patent. In April, 2007, Petitioner met with Mr. John Jeffrey of Dennison Associates, Petitioner's agent, and advised him that due to a shortage of funds, Petitioner would be unable to pay the maintenance fee. At that time, Petitioner also misunderstood the maintenance fee requirements for U.S. Patents and assumed that this maintenance fee would be an annual fee similar to the Canadian Patent. Subsequent to that meeting, Petitioner moved from the Brunswick Street address and further correspondence from Mr. Jeffrey was returned. A copy of this correspondence and returned envelope is attached. As Petitioner did not have any telephone service at that time or subsequent, Mr. Jeffrey was unable to correspondence further with Petitioner.
>
> In March, 2010, Petitioner contacted Mr. Jeffrey in an attempt to sell or license the patent and was informed by Mr. Jeffrey that the patent had expired for non-payment of the maintenance fee. Petitioner was also advised of the procedure to petition for reinstatement and the costs associated with the petition. At that time, Petitioner did not have the funds available to go forward with the request and was only able to raise them in late July, 2010. Since that time Petitioner has taken the steps to promptly file this petition.

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]

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 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 patent owner's failure to pay a maintenance fee may be considered to have been "unavoidable" if the patent owner

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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).

"exercised the due care of a reasonably prudent person."[5] This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."[6] 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.[7] 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.[8] 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.[9] In view of In re Patent No. 4,409,763, this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

This petition does not satisfy the requirement of 37 CFR 1.378(b)(3). The statements presented in the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 CFR 1.378(b).

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.[10] 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.[11]

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[5] Ray v. Lehman, 55 F.3d 606, 608-09 (Fed.Cir.), cert. denied, -- U.S. ---, 116 S.Ct. 304, L.Ed.2d 209 (1995).

[6] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[7] In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (PTO Comm'r 1988).

[8] 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).

[9] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[10] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[11] Id.

Petitioner has not presented a sufficient showing of unavoidable delay resulting from financial hardship. A complete showing is required of petitioner's, or the party responsible for payment of the maintenance fee's, financial condition including all income, expense, assets, credit, and obligations which made the delay from November 18, 2007, the date the maintenance fee was due, until the filing of a grantable petition including the maintenance fee unavoidable. Petitioner must provide verified copies of any available documents or records (e.g. copies of all bank statements and income tax returns) covering the entire period between November 18, 2007, and the filing of a grantable petition, including the maintenance fee payment.

Petitioner has not provided a detailed explanation of his income and assets during the period that payment of the maintenance fee was delayed (*i.e.*, from November 18, 2007, to the submission of a grantable petition including payment of the maintenance fee).

Likewise, petitioner should explain whether he had sufficient credit available to charge the maintenance fee during the period when it could have been timely paid. Petitioner should also explain whether any other sources of income, such as loans or gifts, were available that could have been used to timely pay the maintenance fee.

If petitioner chooses to file a detailed showing as stated above, petitioner may wish to consider redacting any confidential identity information (including, but not limited to social security numbers, bank account or credit card numbers, or sensitive medical information). Any information submitted will become part of the official record.

Further, with regard to petitioner's assertion that he "misunderstood the maintenance fee requirements for U.S. Patents", 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.[12]

Lastly, with regard to petitioner's assertion that his patent practitioner was unable to contact him, a delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay.[13]

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[12] 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).

[13] In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

Petitioner is 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.

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.

Further correspondence with respect to this matter should be addressed as follows:

By mail:
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX:
(571) 273-8300
Attn: Office of Petitions

By hand:
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,648,330 :
Issue Date: 11/18/2003 :
Application Number: 10/071,093 :
Filing Date: 02/11/2002 : ON PETITION
Attorney Docket Number: JJ-11 :
028US

This is a decision on the petition filed on January 31, 2011, which is treated as a petition under 37 CFR 1.378(e) requesting reconsideration of a prior decision which refused to accept under 37 CFR 1.378(b)[1] the delayed payment of a maintenance fee for the above-referenced patent.

The request to accept the delayed payment of the maintenance fee is **DENIED**.[2]

BACKGROUND

The patent issued on November 18, 2003. The first maintenance fee could have been paid during the period from November 18, 2006, through May 18, 2007, or, with a surcharge, during the

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[1] A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must be include

(1) the required maintenance fee set forth in § 1.20(e) through (g);
(2) the surcharge set forth in §1.20(I)(1); and
(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

[2] This decision may be regarded as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02.

period from May 19 through November 18, 2007. Accordingly, the patent expired at midnight on November 18, 2007, for failure to timely pay the first maintenance fee.

On September 10, 2010, a petition under 37 CFR 1.378(b) was filed. On November 30, 2010, the petition was dismissed. On January 31, 2011, the present request for reconsideration under 37 CFR 1.378(e) was filed.

STATUTE AND REGULATION

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...after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

OPINION

The Director may accept late payment of the maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(b) if the delay is shown to the satisfaction of the Director to have been "unavoidable."[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 the identical language, *i.e.*,

[3] 35 U.S.C. § 41(c)(1).

"unavoidable" delay.[4] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[5] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[6] 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.[7]

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.[8] 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.[9]

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.[10] 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.[11]

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[4] 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)).

[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 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).

[6] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[7] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[8] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.

[9] Id.

[10] See Commissariat A. L'Energie Atomique v. Watson, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

[11] 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.

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.378(b):

(1) The delay in reply that originally resulted in expiration;
(2) The delay in filing an initial petition pursuant to § 1.378(b) to revive the application; and
(3) The delay in filing a *grantable* petition pursuant to § 1.378(b) to revive the application.[12]

The petition lacks the requisite showing with regards to periods (1) and (2), above.

Petitioner, inventor Michael Porter, again asserts that the delay in the payment of the maintenance fee was unavoidable due to financial hardship.

In his declaration, petitioner states, in pertinent part:

> 1. In the decision the petition was dismissed as the Petitioner had not presented a sufficient showing of unavoidable delay resulting from financial hardship. In particular, it was requested that Petitioner provide verified copies of available documents or records covering the period from November 18, 2007, to the filing of a grantable petition.
>
> 2. Throughout the period from November 18, 2007 to present, Petitioner has had only one bank account, a savings account with the The Bank of Nova Scotia, at 110 Spadina Avenue, Toronto, Ontario, Canada, M5V 2K4. Petitioner had no other bank accounts and no credit card accounts. In addition, Petitioner had no other commercial credit arrangements, including bank loans. Petitioner has been unable to obtain bank loans or credit cards due to a poor credit rating.
>
> 3. Petitioner has attached printouts of the monthly activity on his savings account with The Bank of Nova Scotia, verified by the Bank of Nova Scotia covering the period of November, 2007 to December, 2010, as Exhibit "A". These statements show all activity of Petitioner's bank account over that period.

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[12] See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

4. From the period of November, 2007 to the present time, Petitioner's major source of income was Income Support provided by the Ministry of Community and Social Services of the Government of Ontario through the Ontario Disability Support Program (O.D.S.P). The O.D.S.P. Income Support Program helps people with disabilities who are in financial need pay for living expenses, like food and housing.

5. These O.D.S.P. payments were deposited directly into Petitioner's bank account on or about the last day of each month and are shown in the monthly activity printouts by the Transaction Description "ONT-O.D.S.P.". From November, 2007 to June, 2008, the payment was $1054 Canadian Dollars (CAD) monthly. From July, 2008 to October, 2008 the amount was $1009 CAD monthly. From November, 2008 to October, 2010, the amount was between $1021 and $1097 CAD monthly. Since November, 2010, the amount has been $1108 CAD monthly.

6. Petitioner's only other regular source of income has been Federal sales tax credits provided on a quarterly basis. These sales tax credits have been between $82.16 CAD and $84.04 CAD quarterly over the relevant period.

7. Petitioner's monthly rent, including utilities was $450 CAD per month from November, 2007 to November, 2009 which left less than $700 CAD per month available for other living expenses, including food, transportation and clothing.

8. Since August, 2009, Petitioner's mother, Thelma Fargher of Victoria, B.C. has been providing $200 CAD monthly to help offset Petitioner's living expenses. Since March, 2010, Petitioner's sister, Anne Fargher of Toronto, Ontario has also been providing $250 CAD monthly to help offset living expenses.

9. In November, 2009, Petitioner was forced to relocate his lodging. Since November, 2009 Petitioner has been paying $700 CAD per month for rent, including utilities. With the additional funds provided by Petitioner's mother and sister, Petitioner now has approximately $800 CAD per month to cover these other living expenses.

10. From the period November 2007 to July 2009, Petitioner's annual income was approximately $13,500

> CAD. With the additional funds from Petitioner's mother and sister Petitioner's annual income is now approximately $18,600. As shown in Exhibit "B", according to Statistics Canada, the low income cut-off or poverty level in Toronto, an urban area of over 500,000 was $18,421 CAD in 2009 for a single person.

In support, petitioner has provided printouts of his bank statements, covering the period from October 1, 2007, through November 30, 2010.

In the decision mailed on November 30, 2010, petitioner was advised to include an exhaustive attempt to provide the information required, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Petitioner was informed that a showing of unavoidable delay based upon financial condition must establish that the financial condition of the responsible party during the entire period of the delay was such as to excuse the delay.[13] A *complete* showing is required of petitioners', or the party responsible for payment of the maintenance fee's, financial condition including all income, expense, assets, credit, and obligations which made the delay from the date the maintenance fee was due until the filing of a grantable petition.

The showing of record, however, does not include such a complete and detailed explanation of petitioner's expenses and assets as is required to establish that the entire delay was unavoidable. At the outset, while petitioner has provided the above-referenced bank statements, an explanation of his rent and utilities, and states that he had no other sources of credit, petitioner has not explained what other expenses he had. Further, petitioner has not explained what asserts, if any, he had that could have been used as collateral or sold to pay the maintenance fee.

Therefore, in accordance with the record as established by petitioner, the only asset that petitioner had was the bank account. Petitioner has failed to establish that the entire delay, from the date the maintenance fee was due until the date the initial petition was filed, was unavoidable. Specifically, it is noted that petitioner has provided copies of his bank statements covering the period from October 26, 2007, through December 24, 2010.

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[13] See Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

The following statement dates and ending balance amounts are noted:

Statement Date	Ending Balance Amount
October 31, 2007	$708.38
February 29, 2008	$1,308.52
March 31, 2008	$1,039.96
April 30, 2008	$1,051.00
May 31, 2008	$1,306.36
July 31, 2008	$716.55
September 30, 2008	$1,003.27
January 31, 2009	$763.25
February 28, 2009	$733.26
March 31, 2009	$827.96
April 30, 2009	$811.26
June 30, 2009	$791.22
October 31, 2009	$953.92
April 30, 2010	$2,836.26

As such, the showing of record is that, at least on the above-referenced dates, petitioner had sufficient funds in his bank account to pay the maintenance fee ($465.00 USD if paid prior to October 2, 2008, $490.00 USD if paid on or after October 2, 2008). Additionally, petitioner has not shown that the unavoidable surcharge of $700.00 USD could not have been paid during this time.

According to the record, rather than "unavoidably" preventing petitioner from maintaining this patent in force, or more timely seeking reinstatement, the financial records by themselves show that petitioner made the business decision to subordinate more timely action in this patent to other financial and business interests, which mitigates away from a finding of unavoidable delay. Petitioner, by a deliberately chosen course of action, subordinated the above-identified patent to other matters and thus intentionally delayed seeking the maintenance or reinstatement of the above-identified patent. This does not represent the care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business.[14] Rather, a delay based upon deliberate business decisions, actions or inactions, which led to a purposeful failure to timely prosecute, is not unavoidable

[14] See Smith v. Diamond, 209 USPQ 1091, 1093 (D.D.C. 1981).

delay.[15] There is no "sliding scale" based upon the priority given to this patent *vis-a-vis* other financial obligations by petitioner. 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. Based upon the financial analysis above, the above-identified patent was not considered by petitioner as his most important business until October 9, 2010. Consequently, the prosecution (*i.e.*, maintenance and reinstatement) of the above-identified patent was conducted with significantly less care or diligence that is generally used and observed by prudent and careful persons in relation to their most important business between at least November 18, 2007, and October 9, 2010.

Furthermore, looking at a totality of the record, petitioner has not demonstrated that a financial hardship was the cause of the delay and not a failure in communication between petitioner and his attorney. As stated by petitioner, in the petition filed September 10, 2010:

> Subsequent to that meeting, Petitioner moved from the Brunswick Street address and further correspondence from Mr. Jeffrey was returned. A copy of this correspondence and return envelope is attached. As Petitioner did not have any telephone service at that time or subsequent, Mr. Jeffrey was unable to correspond further with Petitioner.

A failure in communication between an attorney and client is not unavoidable delay.[16]

In summary, the showing of record is inadequate to establish unavoidable delay. Rather, than unavoidable delay, the showing of record is that petitioner decided that the timely payment of the maintenance fee in this patent was not among petitioner's most important business. Rather, paying the maintenance fee for this patent was less important than other activities, and petitioner failed to take adequate precautions to ensure that maintenance fees were timely paid. As petitioner has not shown that he exercised the standard of care observed by a prudent and

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[15] See, Winkler v. Ladd, 221 F.Supp 550, 552, 138 USPQ 666, 667 (D.D.C. 1963) (bankruptcy trustee's business decision to forego incurring further prosecution expenses and to permit abandonment is binding and not unavoidable delay, when revival subsequently sought).

[16] In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

careful person in the conduct of his or her most important business, the petition is dismissed.[17]

CONCLUSION

The prior decision which refused to accept under § 1.378(b) the delayed payment of a maintenance fee for the above-identified patent has been reconsidered. For the above stated reasons, the delay in this case cannot be regarded as unavoidable within the meaning of 35 U.S.C. § 41(c)(1) and 37 CFR 1.378(b).
The petition under 37 CFR 1.378(e) is **DENIED**. As stated in 37 CFR 1.378(e), no further reconsideration or review of the decision refusing to accept the delayed payment of the maintenance fee under § 1.378(b) will be undertaken. This decision may be regarded as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review.[18]

Since this patent will not be reinstated, the maintenance fee and surcharge fee, less the $400.00 fee for the present request for reconsideration, will be credited to counsel's deposit account.

As stated in 37 CFR 1.378(e), no further reconsideration or review of this matter will be undertaken.

Telephone inquiries should be directed to Senior Petitions Attorney Douglas I. Wood at 571-272-3231.

Anthony Knight
Director
Office of Petitions

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[17] See note 6, supra.
[18] See MPEP 1001.02.

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)
6595159	2003-07-22	10071622	2002-02-09	G561

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Richard W. Goldstein/	Date (YYYY-MM-DD)	2011-07-26
Name	Richard W. Goldstein	Registration Number	36527

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6595159
Issue Date: July 22,2003
Application No. 10071622
Filed: February 9,2002
Attorney Docket No. G561

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 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 July 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY, MD 21043

MAILED
OCT 13 2011
OFFICE OF PETITIONS

In re Patent No. RE 38,436 :
Issued: February 24, 2004 :
Application No. 10/071,827 : ON PETITION
Filed: February 11, 2002 :
Attorney Docket No: MR1111-419 :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed September 22, 2011 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 under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

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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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

MAILED
APR 05 2012
OFFICE OF PETITIONS

In re Application of Hua et al. :
Application No. 10/071,866 : DECISION ON PETITIONS
Filing Date: February 8, 2002 :
Attorney Docket No. 2009186-0042 :

This is a decision on the petitions under 37 C.F.R. § 1.182 and 37 C.F.R. § 1.78(a)(3) filed March 16, 2012.

The petition under 37 C.F.R. § 1.182 is **granted**.

The petition under 37 C.F.R. § 1.78(a)(3) is **granted**.

The instant application is currently abandoned. One may amend an abandoned application filed on or after November 29, 2000, in order to add a late priority claim by filing petitions under 37 C.F.R. § 1.182 and 37 C.F.R. § 1.78(a)(3).

The papers filed March 16, 2002, include the following items:

1. An amendment to add a priority claim,
2. An application data sheet including the new priority claim,
3. A petition under 37 C.F.R. § 1.182, and the required petition fee, requesting entry of the amendment despite the abandoned status of the application, and
4. A petition under 37 C.F.R. § 1.78(a)(3), and the required petition fee, requesting acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petitions.

A review of the record indicates entry of the amendment is warranted and both petitions are granted.

A corrected Filing Receipt, which includes the additional priority claim, accompanies this decision.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
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
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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
10/071,866	02/08/2002	1639	683	2009186-0042	29	1

CONFIRMATION NO. 8715

24280
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

CORRECTED FILING RECEIPT

Date Mailed: 04/03/2012

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)

Shaobing Hua, Cupertino, CA;
Michelle H. Pauling, San Mateo, CA;
Li Zhu, Palo Alto, CA;

Power of Attorney: The patent practitioners associated with Customer Number 24280

Domestic Priority data as claimed by applicant

This application is a CIP of 09/703,399 10/31/2000 PAT 6610472

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: 04/02/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/071,866**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

High throughput generation of human monoclonal antibody against peptide fragments derived from membrane proteins

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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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.

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MAILED

OCT 2 1 2010

OFFICE OF PETITIONS

EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON MA 02205

In re Application of :
Moser, et al. :
Application No. 10/072,425 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. DECLE55.1C2CD1 :

This is in response to petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed March 17, 2010.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled, "Renewed Petition under 37 CFR 1.137(b)". No further petition fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 21, 2009, which set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on October 21, 2009, made timely by obtaining a three month extension of time. However, by Advisory Action mailed January 8, 2010, the Examiner informed Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. As such, the application became abandoned by operation of law on October 22, 2009.

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m) - currently $750 for a small entity; (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 CFR 1.20(d)) required pursuant to paragraph (d) of this section.

The instant petition has not satisfied requirement (1). Applicants have not submitted a proper response to the April 22, 2009 final Office action. A proper response to a final office action consists of either: (1) an amendment that *prima facie* (i.e. on its face) places the application in condition for allowance; (2) a Notice of Appeal (and the required fee); (3) a Request for Continued Examination (and the required fee), or (4) a continuing application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria VA 22313-1450

By FAX: 571-273-8300
Attn: Office of Petitions

Telephone inquiries concerning 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
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EDWARDS ANGELL PALMER & DODGE LLP
PO BOX 55874
BOSTON MA 02205

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of :
Moser, et al. :
Application No. 10/072,425 : ON PETITION
Filed: February 7, 2002 :
Attorney Docket No. DECLE55.1C2CD1 :

This is in response to the renewed petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed December 21, 2010.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a proper response to the final Office action mailed April 21, 2009, which set a shortened statutory period for reply of three (3) months. Applicants filed an Amendment on October 21, 2009, made timely by obtaining a three month extension of time. However, by Advisory Action mailed January 8, 2010, the Examiner informed Applicants that the Amendment would not be entered because it failed to place the application in condition for allowance. As such, the application became abandoned by operation of law on October 22, 2009. The Office mailed a Notice of Abandonment on February 19, 2010.

With the instant petition, petitioner has submitted the required reply in the form of a Notice of Appeal. The other requirements for a grantable petition have been previously satisfied.

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 1644 to await applicants' submission of the Appeal Brief.

Telephone inquiries concerning 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
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TODD R. NISLE
PO BOX 55630
PHOENIX AZ 85078

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of :
James A. NIELSON :
Application No. 10/072,552 : ON PETITION
Filed: October 14, 2003 :
Attorney Docket No. 5079P021C :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 2, 2010, 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 Missing Parts of Nonprovisional Application (Notice), mailed May 2, 2007. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 3, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/803,690, filed July 2, 2010.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/dcg/
Diane C. Goodwyn
Petitions Examiner
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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Paper No.

RATNER AND PRESTIA
Suite 301, One Westlakes, Berwyn
P.O. Box 980
Valley Forge PA 19482-0980

MAILED
JUN 24 2011
OFFICE OF PETITIONS

In re Application of	:	
Hangeland et al.	:	
Application No. 10/072,568	:	LETTER REGARDING
Filed: February 8, 2002	:	FEE DEFICIENCY PAYMENT
Atty Docket No. C&P-103US	:	

This is in response to the letter filed April 19, 2011, which is properly treated as a notification of loss of entitlement to small entity status.

Your notification of a loss of entitlement to small entity status and fee deficiency submission under 37 CFR 1.28 is **NOT ACCEPTED**.

The letter was filed by Dennemeyer & Co., who is not the assignee, a registered practitioner or the inventor, and as such, is not a proper party to assert loss of entitlement to small entity status. The petition includes a letter of assertion, declaring status as a large entity. The letter is signed by Frederico De Stefani as President of SIT LA PRECISA, S.P.A., the company that is of record as assignee; however, the letter appears to be directed to Dennemeyer & Co. and not to the USPTO. Thus, the accompanying letter does not overcome the conclusion that the notification of loss of entitlement to small entity status is not signed by a proper party.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PATENT DEPARTMENT (51851)
KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM NC 27101

MAILED
SEP 08 2010
OFFICE OF PETITIONS

In re Application of :
SCHULER et al. : DECISION ON APPLICATION
Application No. 10/072,728 : FOR
Filed: 02/07/2002 : PATENT TERM ADJUSTMENT
Docket No. IMMR-0043E (034701-068) :

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION" filed March 10, 2010. Applicant asserts that that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) should be corrected from one hundred ninety-nine (199) days to one hundred seventy-two (172) days.

The request for review of the initial Determination of Patent Term Adjustment is **GRANTED to the extent indicated herein**.

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **one hundred seventy-one (171) days**. A copy of the updated PAIR screen, showing the corrected determination, is enclosed.

Applicant states that the period of patent term adjustment should be reduced by 262 days pursuant to 37 CFR 1.704(c)(3). Specifically, applicant directs the Office's attention to the abandonment of the application for failure to submit a timely and proper reply to the final Office action mailed on December 13, 2004.

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 the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (3) Abandonment of the application or late payment of the issue fee, 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 date of abandonment or the date after the date the issue fee was due and ending on the earlier of:
>
> (i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or
>
> (ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

The Office concurs with applicant that the period of adjustment should have been reduced pursuant to 37 CFR 1.704(c)(3)(ii). In this instance, a final Office action was mailed on December 13, 2004, which set a three-month shortened statutory period for reply. Applicant submitted a request for an extension of time for response within the third month. However, applicant did not file a timely and proper reply to the final Office action within the six-month statutory period for response. Thus, the application became abandoned on June 14, 2005. On November 3, 2005, applicant filed a petition under 37 CFR 1.137(b) to revive the application. A decision granting the petition to revive was mailed on August 28, 2006. Accordingly, the period of adjustment should be reduced by 263 days (not 262 as suggested by applicant), counting the number of days beginning on the date of abandonment, June 14, 2005, and ending on the lesser period of the date that is four months after the date the grantable petition to revive the application was filed, March 3, 2006. The period of reduction of 235 days will be removed and a period of reduction of 263 days will be entered.

The Office acknowledges the $200.00 fee under 37 CFR 1.18(e) for the filing of the petition under 37 CFR 1.705(b).

Applicant is reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicant 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 regarding this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

10/072,728 INTERFACE DEVICE WITH TACTILE RESPONSIVENESS 09-08-2010::10:56:32

Patent Term Adjustments

Patent Term Adjustment (PTA) for Application Number: 10/072,728

Filing or 371(c) Date:	02-07-2002	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	489
A Delays:	489	PTO Manual Adjustments:	-28
B Delays:	0	Applicant Delays:	290
C Delays:	0	Total PTA Adjustments:	171

Patent Term Adjustment History **Explanation Of Calculations**

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
138	09-08-2010	Adjustment of PTA Calculation by PTO		263	0
137	09-08-2010	Adjustment of PTA Calculation by PTO	235		0
115	12-11-2009	Mail Notice of Allowance			0
114	12-08-2009	Information Disclosure Statement (IDS) Filed			0
113	12-08-2009	Issue Revision Completed			0
112	12-08-2009	Document Verification			0
111	12-08-2009	Notice of Allowance Data Verification Completed			0
110	12-08-2009	Case Docketed to Examiner in GAU			0
109	12-07-2009	Notice of Allowability			0
108	11-10-2009	Information Disclosure Statement considered			0
104	11-10-2009	Information Disclosure Statement (IDS) Filed			0
103	10-27-2009	Paralegal TD Accepted			0
102	10-09-2009	Date Forwarded to Examiner			0
101	09-23-2009	Response after Non-Final Action			0
100	09-23-2009	Terminal Disclaimer Filed			0
99	06-24-2009	Mail Non-Final Rejection			0
98	06-22-2009	Non-Final Rejection			0
96	05-15-2009	Change in Power of Attorney (May Include Associate POA)			0

95	05-11-2009	Correspondence Address Change		0
94	04-08-2009	Date Forwarded to Examiner		0
93	03-10-2009	Response after Non-Final Action		0
92	12-11-2008	Mail Non-Final Rejection		0
91	12-08-2008	Non-Final Rejection		0
90	08-11-2008	Information Disclosure Statement considered		0
89	08-11-2008	Reference capture on IDS		0
88	08-11-2008	Information Disclosure Statement (IDS) Filed	0	86
87	09-18-2008	Date Forwarded to Examiner		0
86	08-11-2008	Response after Non-Final Action	39	82
85	08-11-2008	Request for Extension of Time - Granted		0
83	08-11-2008	Information Disclosure Statement (IDS) Filed		0
82	04-03-2008	Mail Non-Final Rejection		0
81	03-31-2008	Non-Final Rejection		0
80	01-07-2008	Information Disclosure Statement considered		0
79	02-26-2008	Date Forwarded to Examiner		0
78	02-08-2008	RCE- AF Processed		0
77	02-26-2008	Date Forwarded to Examiner		0
76	02-08-2008	Request for Continued Examination (RCE)	6	67
75	02-26-2008	Disposal for a RCE / CPA / R129		0
74	02-08-2008	Workflow - Request for RCE - Begin		0
73	02-06-2008	Mail Advisory Action (PTOL - 303)		0
72	02-04-2008	Advisory Action (PTOL-303)		0
71	01-07-2008	Information Disclosure Statement (IDS) Filed		0
70	01-22-2008	Date Forwarded to Examiner		0

69	01-07-2008	Amendment after Final Rejection			0
68	01-07-2008	Information Disclosure Statement (IDS) Filed			0
67	11-02-2007	Mail Final Rejection (PTOL - 326)			0
66	11-01-2007	Final Rejection			0
65	08-20-2007	Information Disclosure Statement considered			0
64	08-20-2007	Reference capture on IDS			0
62	08-20-2007	Information Disclosure Statement (IDS) Filed		0	60
61	08-27-2007	Date Forwarded to Examiner			0
60	08-20-2007	Response after Non-Final Action		3	58
59	08-20-2007	Information Disclosure Statement (IDS) Filed			0
58	05-17-2007	Mail Non-Final Rejection			0
57	05-14-2007	Non-Final Rejection			0
56	02-20-2007	Information Disclosure Statement considered			0
55	02-20-2007	Reference capture on IDS			0
54.7	02-20-2007	Information Disclosure Statement (IDS) Filed		0	52
54	02-20-2007	Information Disclosure Statement (IDS) Filed			0
53	03-12-2007	Date Forwarded to Examiner			0
52	02-20-2007	Response after Non-Final Action		5	51
51	11-15-2006	Mail Non-Final Rejection	257		46
50	11-13-2006	Non-Final Rejection			0
49	09-07-2006	Date Forwarded to Examiner			0
48	11-03-2005	RCE- AF Processed			0
47	09-07-2006	Date Forwarded to Examiner			0
46	11-03-2005	Request for Continued Examination (RCE)		235	29
45	09-07-	Disposal for a RCE / CPA / R129			0

	2006				
44	09-07-2006	Case Docketed to Examiner in GAU			0
43	08-28-2006	Mail-Petition to Revive Application - Granted			0
42	04-26-2006	Correspondence Address Change			0
41	11-03-2005	Petition Entered			0
40	11-03-2005	Workflow - Request for RCE - Begin			0
39	09-08-2005	Mail Abandonment for Failure to Respond to Office Action			0
38	09-06-2005	Aband. for Failure to Respond to O. A.			0
37	08-19-2005	Case Docketed to Examiner in GAU			0
36	07-25-2005	Mail Advisory Action (PTOL - 303)			0
35	07-21-2005	Advisory Action (PTOL-303)			0
34	06-23-2005	Correspondence Address Change			0
33	06-24-2005	Change in Power of Attorney (May Include Associate POA)			0
32	06-23-2005	Date Forwarded to Examiner			0
31	06-15-2005	Amendment after Final Rejection			0
30	06-15-2005	Request for Extension of Time - Granted			0
29	12-13-2004	Mail Final Rejection (PTOL - 326)	36		21
28	12-09-2004	Final Rejection			0
27	01-20-2004	Reference capture on IDS			0
26	03-18-2003	Reference capture on IDS			0
25	09-14-2004	IFW TSS Processing by Tech Center Complete			0
24	07-09-2004	Reference capture on IDS			0
23.7	07-09-2004	Information Disclosure Statement (IDS) Filed		2	21
23	07-09-2004	Information Disclosure Statement (IDS) Filed			0
22	09-14-2004	Date Forwarded to Examiner			0

21	07-07-2004	Response after Non-Final Action		0
20	07-07-2004	Workflow incoming amendment IFW		0
19	04-07-2004	Mail Non-Final Rejection		0
18	04-03-2004	Non-Final Rejection		0
17	01-29-2004	Date Forwarded to Examiner		0
16	01-20-2004	Response after Non-Final Action		0
15.7	01-20-2004	Information Disclosure Statement (IDS) Filed		0
15	01-20-2004	Information Disclosure Statement (IDS) Filed		0
14	10-21-2003	Case Docketed to Examiner in GAU		0
13	10-20-2003	Mail Non-Final Rejection	196	-1
12	10-12-2003	Non-Final Rejection		0
11	09-26-2003	Case Docketed to Examiner in GAU		0
10.7	03-18-2003	Information Disclosure Statement (IDS) Filed		0
10	03-18-2003	Information Disclosure Statement (IDS) Filed		0
9	04-15-2003	Correspondence Address Change		0
8	03-18-2003	Preliminary Amendment		0
7	02-07-2002	Preliminary Amendment		0
6	04-24-2002	Case Docketed to Examiner in GAU		0
5	03-01-2002	Application Dispatched from OIPE		0
4	03-01-2002	Application Is Now Complete		0
2	02-22-2002	IFW Scan & PACR Auto Security Review		0
1	02-07-2002	Initial Exam Team nn		0

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Paper No.

DR. MARK M. FRIEDMAN
Moshe Aviv Tower, 54th Floor, 7 Jabotinsky St.
Ramat Gan 52520
ISRAEL

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Application of	:	
Kozlov et al.	:	
Application No. 10/073,018	:	
Patent No.: 6,657,591	:	DECISION ON PETITION
Filed: February 12, 2002	:	PURSUANT TO
Issued: December 2, 2003	:	37 C.F.R. § 1.28(c)
Title: METHOD AND APPARATUS FOR	:	
JOINT IDENTIFICATION AND	:	
DIRECTION FINDING	:	

This is a notice regarding your request for acceptance of a fee deficiency submission pursuant to 37 C.F.R. § 1.28, received on March 21, 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 mistakenly placed the application serial number 12/669,794 on this submission. Petitioner is reminded that errors such as occurred can result in loss of rights and care must be taken to avoid such. The Office will make an effort to assist practitioners if there is sufficient information on the filing to make possible identification of the proper application number.[1] Nonetheless, consistent with his/her duty under Pratt[2]

1 See MPEP §§ 508.03(III) and 724.05(III).

to handle the matter in the vein of one's most important business affairs, a practitioner must be cautious in preparation of his/her submissions.[3]

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 $1240 will be charged to Deposit Account No. 06-2140 in due course.

Your fee deficiency submission pursuant to 37 C.F.R. § 1.28(c) is hereby accepted. The petition is **GRANTED** accordingly.

This 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.[4]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).
3 See MPEP § 502, which sets forth, *in pertinent part*, "Application number (checked for accuracy, including series code and serial no.) …").
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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JOSEPH AKWO TABE
11700 OLD COLUMBIA PIKE
SUITE 2010
SILVER SPRING, MD 20904

MAILED

OCT 28 2010

OFFICE OF PETITIONS

In re Patent No. 6,989,740
Issue Date: January 24, 2006
Application No. 10/073,236
Filed: February 13, 2002
Attorney Docket No.

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed June 7, 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 lack items (1), (2) and (3) above.

As to item (1), a statement that the delay was unintentional has not been received. A courtesy copy of a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent Form is being mailed with this decision.

As to items (2) and (3), the Office received $600 on June 7, 2010 with a Maintenance Fee Transmittal Form. However, the 3 ½ year maintenance fee (Small Entity) is $490 while the Surcharge after expiration is $1,640. The $600 is being applied toward the payment of these fees, which leaves a balance

of $1530. If reconsideration of this decision is filed, petitioner must submitted $1930 ($1530 balance and $400 reconsideration petition fee).

The paper filed June 7, 2010 lists an incorrect Application Number; 10/973,236 i.e., the Office will treat this paper as Application Number as 10/073,236.

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 Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: A courtesy copy of a Petition to Accept Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent Form (37 CFR 1.378(c))

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

JOSEPH AKWO TABE
11700 OLD COLUMBIA PIKE
SUITE 2010
SILVER SPRING, MD 20904

MAILED

FEB 17 2011

OFFICE OF PETITIONS

In re Patent No. 6,989,740
Issue Date: January 24, 2006
Application No. 10/073,236
Filed: February 13, 2002
Patentee: Joseph A. Tabe

ON PETITION

REQUIREMENT FOR INFORMATION

Papers filed on December 28, 2010, are being treated as a Request for Reconsideration under 37 CFR 1.378(e) to accept the delayed payment of a maintenance fee for the above-identified patent.

A decision on this request will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to address the following issues before a decision is rendered. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b).

Office record show the $400 Request for Reconsideration Fee was received on December 28, 2010. However, the $1530 balance has not been received. This request can not be granted until the $1530 balance is received.

The response to this Requirement for Information should include a cover letter entitled "Response to Requirement for Information." At the end of the two month period specified above, a decision will be rendered on the instant petition under 37 CFR 1.378 as supplemented by any information submitted in response to this Requirement for Information.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210

Irvin Dingle
Petitions Examiner
Office of Petitions

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JOSEPH AKWO TABE
11700 OLD COLUMBIA PIKE
SUITE 2010
SILVER SPRING, MD 20904

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Patent No. 6,989,740 :
Issue Date: January 24, 2006 :
Application No. 10/073,236 : ON PETITION
Filed: February 13, 2002 :
Attorney Docket No. :

This is a decision on the petition filed April 4, 2011 which is being treated as a Request for Reconsideration under 37 CFR 1.378(e) 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

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)
6581998	2003-06-24	10073381	2002-02-12	1017

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Donald A. Kettlestrings/	Date (YYYY-MM-DD)	2011-08-19
Name	Donald A. Kettlestrings	Registration Number	24573

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6581998
Issue Date: June 24,2003
Application No. 10073381
Filed: February 12,2002
Attorney Docket No. 1017

:
: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 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 19,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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P.O. Box 1450
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RAMBUS INC.
C/O ANN WILLIAMS
4440 EL CAMINO REAL
LOS ALTOS CA 94022

MAILED
OCT 12 2010
OFFICE OF PETITIONS

In re Application:	:	
Rhoades et al.	:	
Application No. 10/073,948	:	ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. 0120-024	:	

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.

The address given on the petition differs from the new 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kenneth B. Leffler
Potomac Patent Group, PLLC
P.O. Box 270
Fredericksburg, VA 22404

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MENLO PARK CA 94025

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application:	:	
Ken Cameron	:	
Application No. 10/074,019	:	ON PETITION
Filed: February 14, 2002	:	
Attorney Docket No. 0120-023	:	

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.

The address given on the petition differs from the new 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 inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Kenneth B. Leffler
Potomac Patent Group, PLLC
P.O. Box 270
Fredericksburg, VA 22404

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ZAGORIN O'BRIEN GRAHAM LLP (149)
7600B N. CAPITAL OF TX HWY
SUITE 350
AUSTIN TX 78731

MAILED

DEC 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,695,690	:	DECISION ON REQUEST
Taylor et al.	:	FOR
Issue Date: 04/13/2010	:	RECONSIDERATION OF
Application No. 10/074,209	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 02/12/2002	:	
Atty Docket No.	:	
149-0007-3	:	

This is a decision on the petition filed on May 7, 2010, 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 five hundred nine (509) days.

The petition to correct the patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of three hundred fifty-five (355) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on February 13, 2005, and ends on February 13, 2007, the day before the first RCE was filed, and is 731, not 732 days as asserted by patentee. See 35 U.S.C. 154(b)(1)(B)(i). Additionally, any time consumed by appellate review is not included in the calculation of 37 CFR 1.702(b). See 35 U.S.C. 154(b)(1)(B)(ii). On September 14, 2006, a notice of appeal was filed. On February 14, 2007, the RCE was filed. Accordingly, the excluded period is the period from the date the notice of appeal was filed until February 13, 2007, the date before the date the RCE was filed, or 153 days. Considering the overlapping period of 237 days beginning on July 22, 2005, the day after the date four months after the date a reply was filed, and ending on March 15, 2006, the date an Office action was mailed, the non-overlapping "B" delay period is 341 (731 – (153 + 237)) days.

Accordingly, no change will be made to the patent term adjustment of 355 days (453 days Office delay + 341 days three years delay – 439 days of applicant delay) days indicated on the face of the issue patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : June 2, 2010

TO SPE OF : ART UNIT 1787
SUBJECT : Request for Certificate of Correction for Appl. No/10/074209/ patent 7698690

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.

☐ **Approved**	**All** changes apply.
☒ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The correction to col. 23, line 16 is denied given that "maybe" which is instructed to be replaced with "may be" is not found in this line. Given that it is clear that applicants meant to cite col. 23, line 17, the same change to this line is approved and PTO/SB/44 annotated to this effe

Annotated copy is attached.

Cassie Shosho — SPE
1787 — Art Unit

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Charles E. Taylor et al.		
Assignee:	Tessera, Inc.		
Title:	AIR TREATMENT APPRATUS HAVING MULITPLE DOWNSTREAM ELECTRODES		
Application No.:	10/074,209	Filed:	February 12, 2002
Patent No.:	7,695,690	Issued:	April 13, 2010
Atty. Docket No.:	149-0007-3	Confirmation No.:	4379

ATTN: Certificate of Correction Branch
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT—APPLICANT'S MISTAKE (37 C.F.R. § 1.323)

1. It is noted that errors appear in this patent of a clerical, typographical, or minor nature or character. The errors occurred in good faith. Correction thereof does not involve such changes in the patent as would constitute new matter or would require re-examination. A certificate of correction is requested.

2. Applicants further request that the originally filed priority claim to U.S. Provisional Applications as amended in the Preliminary Amendment filed June 11, 2002, and the Supplemental Amendment filed August 7, 2007, be included on the cover page in the Related U.S. Application Data section.

3. Attached hereto is Form PTO/SB/44 (PTO-1050) suitable for printing.

4. Please send the Certificate to:

   Kirk Dorius
   Zagorin O'Brien Graham LLP
   7600B N. Capital of Texas Hwy, Suite 350
   Austin, TX 78731

5. The $100.00 fee required under 37 C.F.R. § 1.20(a) is submitted as follows:

- ☒ The fee is being paid as directed in an electronic submission of this paper.
- ☐ The fee is being paid by credit card as directed in the attached Form PTO-2038.
- ☐ A check is enclosed for this fee.
- ☐ Please charge this fee to Deposit Account 50-0631. A duplicate of this request is attached.
- ☒ The Commissioner is hereby authorized to charge any deficiency in fees and any additional fees that may be required by this paper, and to similarly credit any overpayment, to Deposit Account 50-0631.

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that, on the date shown below, this correspondence is being

- ☐ deposited with the US Postal Service with sufficient postage as first class mail in an envelope addressed as shown above.
- ☐ facsimile transmitted to the USPTO.
- ☒ transmitted using the USPTO electronic filing system.

Kirk Dorius — 5-19-10

Kirk Dorius — Date

Respectfully submitted,

Kirk Dorius

Kirk Dorius, Reg. No. 54,073
Attorney for Applicant(s)
(512) 338-6321
(512) 338-6301 (fax)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO:	7,695,690
APPLICATION NO.:	10/074,209
ISSUE DATE:	April 13, 2010
INVENTOR(S):	Charles E. Taylor Jim L. Lee

It is certified that error(s) appear(s) in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page, in the Related U.S. Application Data section after the paragraph numbered "(63)" please insert the following:

--(60) Provisional application No. 60/341,090, filed on Dec. 13, 2001, and provisional application No. 60/306,479, filed on Jul. 18, 2001.--

In column 2, line 38, please replace "maybe" with --may be--;

In column 3, line 46, please replace "maybe" with --may be--;
line 48, please replace "electrodes" with --electrode--;
line 67, please replace "are" with --is--;

In column 4, line 4, please replace "electrode" with --electrodes--;
line 10, please replace "claim" with --claims--;

In column 5, line 34, please replace "front located" with --front-located--;
line 45, please add --than-- after "other";
line 65, please delete the "," after "100";

In column 6, line 33, please replace "particulates" with --particulate--;
line 35, please replace "maybe" with --may be--;
line 36, please replace "reduces" with --reduce--;
line 42, please replace "or-elliptically shaped" with --or elliptically-shaped--;

In column 7, line 14, please insert --,-- after "190";
line 36, please replace "maybe" with --may be--;
line 44, please replace "maybe" with --may be--;
line 66, please replace "flowrate" with --flow rate--;

MAILING ADDRESS OF SENDER (Please do not use customer number below):
ZAGORIN O'BRIEN GRAHAM LLP
7600B N. Capital of Texas Hwy., Suite 350
Austin, Texas 78731

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO:	7,695,690
APPLICATION NO.:	10/074,209
ISSUE DATE:	April 13, 2010
INVENTOR(S):	Charles E. Taylor Jim L. Lee

It is certified that error(s) appear(s) in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

CONTINUED

In column 8, line 11, please replace "systems" with --unit--;
line 29, please insert --and-- before "yet";

In column 10, line 55, please replace "maybe" with --may be--;

In column 11, line 18, please replace "electrodes" with --electrode--;
line 25, please replace "surface" with --surfaces--;
line 67, please replace "maybe" with --may be--;

In column 13, line 1, please replace "electrodes" with --electrode--;
line 2, please replace "are" with --is--;
line 18, please replace "believe" with --believed--;
line 32, please replace "maybe" with --may be--;
line 61, please replace "Byway" with --By way--;

In column 14, line 5, please replace "maybe" with --may be--;
line 22, please replace "side walls" with --sidewalls--;
line 23, please replace "side walls" with --sidewalls--;
line 24, please replace "side walls" with --sidewalls--;
line 25, please replace "side walls" with --sidewalls--;
line 39, following " for" please insert --the--;

MAILING ADDRESS OF SENDER (Please do not use customer number below):
ZAGORIN O'BRIEN GRAHAM LLP
7600B N. Capital of Texas Hwy., Suite 350
Austin, Texas 78731

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO: 7,695,690
APPLICATION NO.: 10/074,209
ISSUE DATE: April 13, 2010
INVENTOR(S): Charles E. Taylor
Jim L. Lee

It is certified that error(s) appear(s) in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

CONTINUED

In column 15, line 14, please replace "maybe" with --may be--;

In column 16, line 39, please replace "Byway" with --By way--;

In column 17, line 49, please insert --,-- following "disc";
line 66, please delete "a" before "reduced";

In column 18, line 25, please replace "where upon" with --whereupon--;
line 46, please replace "teardrops shaped" with --teardrop-shaped--;
line 66, please delete "," following "on";

In column 19, line 42, please replace "242-2,242-3" with --242-2, 242-3--;

In column 20, line 5, please replace "maybe" with --may be--;
line 25, please replace "by" with --be--;
line 44, please replace "maybe" with --may be--;

In column 21, line 36, please delete "," following "order" and insert --,-- following "of";
line 60, please replace "electrode" with --electrodes--;

In column 22, line 52, please replace "Byway" with --By way--;

MAILING ADDRESS OF SENDER (Please do not use customer number below):
ZAGORIN O'BRIEN GRAHAM LLP
7600B N. Capital of Texas Hwy., Suite 350
Austin, Texas 78731

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO:	7,695,690
APPLICATION NO.:	10/074,209
ISSUE DATE:	April 13, 2010
INVENTOR(S):	Charles E. Taylor Jim L. Lee

It is certified that error(s) appear(s) in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

CONTINUED

In column 23, line 9, please replace "it self" with --itself--;
line ~~16~~ 17, please replace "maybe" with --may be--;
line 24, please replace "maybe" with --may be--;

In column 25, in claim 31, line 19, please insert --of-- following "apparatus";

MAILING ADDRESS OF SENDER (Please do not use customer number below):
ZAGORIN O'BRIEN GRAHAM LLP
7600B N. Capital of Texas Hwy., Suite 350
Austin, Texas 78731

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DEC 19 2011

OFFICE OF PETITIONS

Daniel A. Scola, Jr.
HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset NY 11791

In re Patent No. 7,425,292 :
Issued: September 16, 2008 :
Application No.: 10/074,272 : NOTICE
Filed: February 14, 2002 :
Attorney Docket No: **1199-4** :

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) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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TROP, PRUNER & HU, P.C.
1616 S. VOSS ROAD, SUITE 750
HOUSTON TX 77057-2631

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of
Barry S. McAuliffe et al.
Application No. 10/074,386
Filed: February 12, 2002
Attorney Docket No. BLU.0002US

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed December 1, 2010, 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 20, 2010. A response was filed November 12, 2010 but by Advisory Action of November 17, 2010, petitioner was advised that the response did not place the application in condition for allowance. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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.

Additionally, however, there is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future

---

[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)).

correspondence regarding this application, the appropriate power of attorney 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 3622 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

cc:
ASHLEY M. HU
WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO, CA 94304

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110623

DATE : June 23, 2011

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction on Patent No.: 6748008

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:

/CHIEH M FAN/
Supervisory Patent Examiner.Art Unit 2611

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
Approved for use through 07/31/2010. 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: 00GR227754352	
Application Number: 10/075,113	Filing Date (or 371(b) or (f) Date): FEBRUARY 13, 2002
Patent Number: 7,661,040	Issue Date: FEBRUARY 9, 2010
First Named Inventor: Marc BEAUJOIN	
Title: METHOD OF TESTING A SEQUENTIAL ACCESS MEMORY PLANE AND A CORRESPONDING SEQUENTIAL ACCESS	

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	Date AUGUST 6, 2010
Name (Print/Typed) PAUL J. DITMYER	Registration Number 40,455

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 1 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

ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A.
1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE
P.O. BOX 3791
ORLANDO, FL 32802-3791

Mail Date: 08/12/2010

Applicant	: Marc Beaujoin	: DECISION ON REQUEST FOR
Patent Number	: 7661040	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/075,113	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/13/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1065** 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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GLobal IP Law, LLC
233 South Wacker Drive (Willis Tower)
Suite 8400
Chicago, IL 60606

MAILED

MAY 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,046,779 :
Issue Date: May 16, 2006 :
Application No. 10/076,276 : ON PETITION
Filed: February 15, 2002 :
Patentee(s): Thomas H. Hesse :

This is a decision on the petition under 37 CFR 1.378(c), filed on April 12, 2011[1], 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

[1] A Statement under 37 CFR 3.73(b) was filed on March 28, 2011.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110512

DATE : May 12, 2011

TO SPE OF : ART UNIT 2188

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/MANO PADMANABHAN/
Supervisory Patent Examiner.Art Unit 2188

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OTT-NIH
C/O EDWARDS ANGELL
PALMER & DODGE LLP
PO BOX 55874
BOSTON MA 02205

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of :
Guttman, et al. :
Application No. 10/076,882 : DECISION
Filed/Deposited: 14 February, 2002 :
Attorney Docket No. 11613.50USU1 :

This is a decision on the petition filed on 28 September, 2010, later supplemented, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

NOTE:

It appears that following submission 30 September, 2009, 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 the previously filed amendment, Petitioner submitted on 10 November, 2009, a Revocation/Power of Attorney with Notice of Change of Address linked to a Customer Number (with a companion certificate pursuant to 37 C.F.R. §3.73(b)).

However, it appears that thereafter Petitioner took no action to ensure the entry of that Change of Address or to inquire when that transaction did not appear to be entered.

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, Petitioner might have known at a keystroke that the Change of Address requested had not been entered, in that online access was not available, and Petitioner might have promptly sought resolution of the matter. It does not appear that Petitioner took advantage of this potential.

Application No. 10/076,882

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects as follows:

Following Petitioner's submission on 10 November, 2009, of a Revocation/Power of Attorney and Notice of Change of Address linked to a Customer Number (with a companion certificate pursuant to 37 C.F.R. §3.73(b)), Petitioner failed to reply timely and properly to the final Office action mailed on 19 January, 2010, with reply due absent extension of time on or before 19 April, 2010.

The application went abandoned by operation of law after midnight 19 April, 2010.

The Office mailed the Notice of Abandonment on 28 July, 2010.

On 28 September, 2010, Petitioner filed a petition pursuant to 37 C.F.R. §1.181: Therein Petitioner averred non-receipt of the Office action because the Office action was mailed to the address of prior Counsel, and not to Petitioner. In so doing, Petitioner sought in the petition and in the supplement thereto submitted thereafter to make a showing consistent with the guidance in the Commentary at MPEP 711.03(c)(I).

The showing pursuant to 37 C.F.R. §1.181 consistent with the guidance in the Commentary at MPEP 711.03(c)(I), provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not

received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Moreover, Office records clearly indicate that following Petitioner's submission of a Revocation/Power of Attorney with Notice of Change of Address on 10 November, 2009, the Office failed to enter that data, and the final Office action was mailed in error to prior Counsel.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office 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]

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]

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[1] *See*: MPEP §711.03(c) (I)(A).

[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] 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).

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]

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how and when it is to be made and supported.

Petitioner appears to have made the showing required.

CONCLUSION

Accordingly, the petition as considered under 37 C.F.R. §1.181 is **granted**, and the 28 July, 2010, Notice of Abandonment hereby is **vacated**.

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[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).

Application No. 10/076,882

The instant application is released to Technology Center/AU 3737 for further processing in due course, to include the remailing of the final Office action of 19 January, 2010.

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 that change in 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[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.

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)
6944087	2005-09-13	10076966	2002-02-15	42P14045

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kendal M. Sheets/	Date (YYYY-MM-DD)	2010-10-13
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. 6944087
Issue Date: September 13,2005
Application No. 10076966
Filed: February 15,2002
Attorney Docket No. 42P14045

:
: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
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Paper No.

BIOGEN IDEC / FINNEGAN HENDERSON, LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

MAILED

SEP 23 2010

OFFICE OF PETITIONS

In re Patent No. 7691804	:	
Browning et al.	:	DECISION ON REQUEST
Issue Date: 04/06/2010	:	FOR RECONSIDERATION OF
Application No. 10/077137	:	PATENT TERM ADJUSTMENT
Filed: 02/15/2002	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
08201.0027-00000	:	CERTIFICATE OF CORRECTION

This is a decision on the "REPLY TO DECISION DISMISSING REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION," filed on June 9, 2010. Patentees request that the Patent Term Adjustment for the above-identified patent be reduced from 1011 days to 1002 days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be updated by issuance of a certificate of correction showing a revised Patent Term Adjustment of one thousand two (1002) days.

On April 6, 2010, the above-identified application matured into U.S. Patent No. 7,691,804. A request for reconsideration of the patent term adjustment was timely filed on May 14, 2010, filed within 2 months of the date the patent issued. See § 1.705(d). On May 20, 2010, a Decision on Request for Recalculation of Patent Term Adjustment in View of *Wyeth* was mailed, stating the request for recalculation was dismissed.

On June 9, 2010, the subject request for reconsideration was timely filed. Patentees contend that the Decision mailed on May 20, 2010, was improper because patentees had not requested reconsideration in view of *Wyeth*, but, instead, had asserted in

the request filed on May 14, 2010, that there appeared to be an error resulting in an extra 9 days of patent term resulting from the correction of the patent term adjustment in connection with a decision mailed on February 5, 2010 in response to an application for patent term adjustment under 37 CFR 1.705(b) filed on July 10, 2009.

Upon review, patentee's contention is well taken. A review of Office PAIR records reveals that period of applicant delay in response to the non-final Office action mailed on March 28, 2007, was changed from 98 days to 89 days as a result of a system correction. However, as a result of this correction, the period of applicant delay was improperly reduced by 9 days.

In view thereof, the patent term adjustment indicated on the patent should be 1002 days (753 days of Office delay and 483 days of three years delay less 234 (33 + 31 + 47 + 34 + 89) days of applicant delay).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

The application is being referred to the Certificate of Correction Branch for issuance of a certificate of correction to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by ONE THOUSAND TWO (1002) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,691,804 B2

DATED : **Apr. 6, 2010** **DRAFT**

INVENTOR(S) : Browning 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 1011 days.

Delete the phrase "by 1011 days" and insert – by 1002 days--

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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)
7056950	2006-06-06	10/077,283	2002-02-14	RIPLLC018.010US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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	/Geeta Kadambi/	Date (YYYY-MM-DD)	2011-06-16
Name	GEETA KADAMBI	Registration Number	64446

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7056950
Issue Date: June 6,2006
Application No. 10077283
Filed: February 14,2002
Attorney Docket No. 11957/20

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 16,2011 ,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 16,2011 .
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)
6679351	2004-01-20	10/077,324	2002-02-15	80443.0001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Joshua N. Randall/	Date (YYYY-MM-DD)	2012-04-11
Name	Joshua N. Randall	Registration Number	50719

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6679351
Issue Date: January 20,2004
Application No. 10077324
Filed: February 15,2002
Attorney Docket No. 1481.ASUT.NP

:
: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.

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
AUG 02 2011
OFFICE OF PETITIONS

PIERRE J. AUGIER
2252 SOMERSET BOULEVARD
SUITE # 205
TROY, MI 48084

In re Patent No. 6,568,765 :
Issue Date: May 27, 2003 :
Application No. 10/077,335 : ON PETITION
Filed: February 15, 2002 :
Attorney Docket No. 45946-0100 :

This is a decision on the petition under 37 CFR 1.378(c), filed July 7, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The patent issued May 27, 2003. The 7 ½ year maintenance fee could have been paid from May 27, 2010 through November 29, 2010, or with a $65 surcharge during the period from November 30, 2010 through May 27, 2011. Accordingly, the patent expired at midnight May 27, 2011, for failure to timely submit, the (second) 7 ½ year maintenance fee.

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 (2) above.

Finance records show that petitioner submitted $1640 for the surcharge for the filing of a maintenance fee petition under the unintentional standards on July 7, 2011. However, the maintenance fee payment has not been received. If petitioner intends to submit a renewed petition or a request for reconsideration to accept late payment of the maintenance fee petitioner is required to submit the maintenance fee payment of $1240 is required to meet the fee requirements of the petition.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted.

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 above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: PIERRE J. AUGIER
9326 SAND HILL DRIVE
GRAND BLANC, MI 48439

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PIERRE J. AUGIER
2522 SOMERSET BOULEVARD
SUITE 205
TROY, MI 48084

MAILED
SEP 08 2011
OFFICE OF PETITIONS

In re Patent No. 6,568,765 :
Issue Date: May 27, 2003 :
Application No. 10/077,335 : ON PETITION
Filed: February 15, 2002 :
Attorney Docket No. 19394-0881795 :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed August 10, 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 27, 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).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/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

TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Application of :
Peter J. Spransy et al :
Application No. 10/077,359 : DECISION ON PETITION
Filed: February 15, 2002 : TO WITHDRAW
Attorney Docket No. 4764US : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed August 21, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that James R. Duzan 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. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Irvin Dingle at 571-272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MADSON IP
OLD SHEPARD COMMONS, SUITE 230
1466 NORTH HIGHWAY 89
FARMINGTON, UT 84025

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Patent No. 7,093,398 :
Issue Date: August 22, 2006 :
Application No. 10/077,359 : ON PETITION
Filed: February 15, 2002 :
Patentee(s) Peter J. Spransy et al :

This is a decision on the petition under 37 CFR 1.378(c), filed February 22, 2011 and supplemented on March 9, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/077,359	02/15/2002	Peter J. Spransy	4764US

CONFIRMATION NO. 2495

POWER OF ATTORNEY NOTICE

24247
TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

OC000000047598661

Date Mailed: 05/16/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2011.

- 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).

/idingle/

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
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/077,359	02/15/2002	Peter J. Spransy	4764US

CONFIRMATION NO. 2495

84138
MADSON IP
Old Shepard Commons, Suite 230
1466 North Highway 89
Farmington, UT 84025

POA ACCEPTANCE LETTER

OC000000047598691

Date Mailed: 05/16/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/22/2011.

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.

/idingle/

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
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,674	02/15/2002	Kunio Fukuda	7217/66551	3017

15028 7590 08/25/2011

SONYJP
Lerner, David, Littenberg, Krumholz & Mentlik, LLP
600 South Ave West
Westfield, NJ 07090

EXAMINER	
DURAN, ARTHUR D	
ART UNIT	PAPER NUMBER
3682	

NOTIFICATION DATE	DELIVERY MODE
08/25/2011	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):

eOfficeAction@ldlkm.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

AUG 24 2009

SONYJP
Lerner, David, Littenberg, Krumholz & Mentlik, LLP
600 South Avenue West
Westfiled, NJ 07090

In re Application of	:	
Kunio Fukuda	:	DECISION ON PETITION
Application No. 10/077,674	:	UNDER 37 C.F.R. 1.181
Filed: February 15, 2002	:	TO WITHDRAW FINALITY
For: INFORMATION PROPAGATION DEVICE, INFORMATION TERMINAL, INFORMATION PROVISION SYSTEM AND INFORMATION PROVISION METHOD	:	OF OFFICE ACTION

This is in response to applicant's petition filed on July 14, 2008, requesting withdrawal of the finality of the Office action mailed April 9, 2008 as being premature.

The petition is **DISMISSED AS MOOT.**

Applicant alleges that the final Office action dated April 9, 2008 was premature and clearly improper, since the examiner's position in said Office action is inconsistent with the examiner's position in the advisory action issued earlier on November 23, 2007. The examiner made the rejections final on the grounds that the claims "could have been finally rejected on the grounds and art of record," but indicated in an earlier advisory action that the same amendments to the claims "would raise new issues that would require further consideration and/or search."

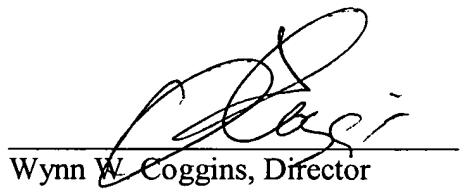
MPEP 706.07(b) sets forth that it would not be proper to make final a first Office action in a continuing or substitute application or an RCE where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search....

A review of the record indicates that applicant filed an amendment after final on November 5, 2007. The examiner issued an advisory action on November 23, 2007 indicating that the claims raise new issues that would require further consideration and/or search. Applicant subsequently filed a Request for Continued Examination on February 1, 2008. A final Office action was mailed on April 9, 2008 in which the examiner made the action final on the grounds that the claims could have been finally rejected on the grounds and art of record. Applicant filed a petition on July 14, 2008 along with an amendment under 37 CFR 1.116. The examiner held an

examiner initiated interview on July 24, 2008 withdrawing the finality of the April 9, 2008 Office action. The amendment of July 14, 2008 was entered, and a final Office action was mailed on August 8, 2008.

Since the finality of the Office action dated April 9, 2008 has already been withdrawn, and the amendment of July 14, 2008 filed under 37 CFR 1.116 has been entered, the issue raised in the July 14, 2008 petition is moot.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Namrata Boveja at (571) 272-8105.



Wynn W. Coggins, Director
Patent Technology Center 3600
571-272-5350

nb: 8/16/11

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7117370
Issue Date: October 3,2006
Application No. 10077864
Filed: February 20,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 17,2010 ,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 17,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7117370	2006-10-03	10077864	2002-02-20	VS-01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Gordon Thomson/	Date (YYYY-MM-DD)	2010-11-17
Name	Gordon Thomson	Registration Number	55922

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON NJ 08543-5312

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
Donald H. WILLIS :
Application No. 10/078,776 : DECISION ON PETITION
Filed: February 19, 2002 :
Attorney Docket No. PU020037 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed May 08, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 17, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 October 18, 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 Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of July 17, 2006 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a

reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2628 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

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United States Patent and Trademark Office
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JUN 16 2011

OFFICE OF PETITIONS

HOWARD M. PETERS
PETERS, VERNY, JONES & SCHMITT, L.L.P.
425 SHERMAN AVENUE
SUITE 230
Palo Alto CA 94306

In re Patent No. 6,884,271 :
Issue Date: April 26, 2005 :
Application No. 10/078,820 :
Filed: February 19, 2002 :
Atty. Docket No. 3596.02-3

This is a decision on the petition under 37 CFR 1.378(c), filed April 22, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired April 27, 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).

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 user of record.

Telephone inquires regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

for Ramesh Krishnamurthy

David Bucci
Petitions Examiner
Office of Petitions

cc: Ms. Deborah C. Wenzel
270 Sparta Avenue
Ste. 104, #333
Sparta, NJ 07871

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DEC 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Koskelainen et al.	:	
Application No. 10/079,426	:	DECISION ON PETITIONS
Filed: February 22, 2002	:	
Attorney Docket No. 60282.00294	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2011, which will be treated as a petition under 37 CFR 1.181 requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned for failure to take appropriate action in a timely manner after the decision of July 26, 2011 by the Board of Patent Appeals and Interferences. A Notice of Abandonment was mailed October 4, 2011.

A review of USPTO reveals as evidence a timely and *bona fide* attempt by Applicant was filed September 26, 2011 in response to the decision by the Board of Appeals and Interferences mailed July 26, 2011.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Further, the petition under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT**.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Accordingly, the large entity $1,860.00 petition fee submitted with the 1.137(b) will be credited to petitioner's credit card in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

The application file is being referred to Technology Center AU 2441 for appropriate action on the concurrently filed amendment.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Heck Family Trust
Varda Treibach-Heck
784 Vespucci Lane
Foster City CA 94404

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DEC 02 2010

OFFICE OF PETITIONS

In re Patent of Treibach-Heck :
Patent No. 7,080,325 :
Issue Date: July 18, 2006 : ON PETITION
Application No. 10/080,472 :
Filed: February 22, 2002 :
Attorney Docket No. CALL-TELL PD

This is a decision on the petition under 37 CFR 1.378(b), filed August 17, 2010 (certificate of mailing date August 13, 2010), to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

BACKGROUND

The patent issued July 18, 2006. The first maintenance fee due could have been paid during the period from July 18, 2009, through January 18, 2010 or with a surcharge during the period from January 19, 2010, through July 18, 2010. Accordingly, the patent expired July 19, 2010.

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 Commissioner 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 Commissioner 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. Copies of all documentary evidence referred to in a statement should be furnished as exhibits to the statement.

OPINION

Petitioner urges that the payment of the 3 1/2 year maintenance fee for the above-identified patent was unavoidably delayed because the owner of the patent, Call-Tell LLC was embroiled in involuntary bankruptcy proceedings when the 3 1/2 year maintenance fee was due and that the bankruptcy trustee did not transfer intellectual property rights in the patent to the current owner, the Heck Family Trust, until August 12, 2010. It is noted the present petition was filed one day later, on August 13, 2010.

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).

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 F.3d at 609-609, 34 USPQ2d at 1787. The party whose delay is relevant is the party in interest at the time action is needed to be taken. In Re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).

The record fails to disclose that the party in interest or the bankruptcy trustee took reasonable steps to ensure timely payment of the maintenance fee. In fact, the record indicates that no steps were taken by party in interest or the bankruptcy trustee to ensure timely payment of the maintenance fee. Since no steps were taken, 37 CFR 1.378(b) precludes acceptance of the delayed payment of the maintenance fee.

Call-Tell LLC was the assignee of the patent at the time the maintenance fee was due. Call-Tell LLC was involved in involuntary bankruptcy proceedings at the time the maintenance fee was due. Call-Tell LLC (presumably) received the maintenance fee reminder for the patent on March 5, 2010 and forwarded it on the bankruptcy trustee and her attorney. Therefore, Call-Tell LLC and the bankruptcy trustee were aware that a maintenance fee was due by July 18, 2010.

On August 12, 2010, the Heck Family Trust purchased the patent.

There is no evidence in the record that anyone took steps to ensure timely payment of the maintenance fee.

To prevail under 37 CFR 1.378(b): Petitioner must demonstrate, via a documented showing, that there was a reliable tracking system in place to monitor the due date of the maintenance fee and that a responsible party had docketed this patent in that system. Evidence should be submitted which demonstrates that despite reasonable care by the patentee and/or the patentee's agent to implement reasonable steps to ensure the timely payment of the maintenance fee, the maintenance fee was nevertheless, unavoidably not paid. Was this patent entered into a reliable tracking system, or was Call-Tell LLC aware of the requirement to pay the maintenance fee only because a Maintenance Fee Reminder was sent from the Office?

The bankruptcy trustee has not provided a statement as to what steps she took with respect to tracking and payment the maintenance fee. Why wasn't the value of the asset protected by payment of the maintenance fee?

It is noted that petitioner, Varda Treibach-Heck is a joint inventor of the patent, she is a founder of Call-Tell LLC and has served as president of the company. By July 12, 2010, the trustee had agreed to sell Call-Tell's patents to the Heck Family Trust subject to objections and/or higher and better bids through August 3, 2010. Ms. Treibach-Heck was aware that a maintenance fee was due and she had a strong interest in the patent. However, she chose not to pay the maintenance fee prior to the expiration of the patent. Petitioner is reminded that the Office accepts timely paid maintenance fees from anyone.

It follows that petitioner did not exercise the due care and diligence of a reasonably prudent person, nor did petitioner exercise due diligence with respect to tracking and paying the maintenance fee for this patent. It appears the bankruptcy trustee did not take any steps to ensure timely payment of the maintenance fee. As such, petitioner has failed to reasonably establish unavoidable delay.

Given the facts and circumstances surrounding the expiration of the patent, petitioner is **strongly** encouraged to file a petition under the unintentional delay standard of 37 CFR 1.378(c). The $700.00 surcharge submitted with the present petition will be applied toward the $1,640.00 surcharge for reinstating a patent expired unintentionally leaving a balance due of $940.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail:
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By hand:
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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 should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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Foster City CA 94404

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OFFICE OF PETITIONS

In re Patent of Treibach-Heck :
Patent No. 7,080,325 :
Issue Date: July 18, 2006 : REQUEST FOR INFORMATION
Application No. 10/080,472 :
Filed: February 22, 2002 :
Attorney Docket No. CALL-TELL PD

A petition under 37 CFR 1.378(c) was filed on October 11, 2011 (certificate of mailing date October 5, 2011).

On September 26, 2011, a revised fee schedule went into effect.

Petitioner submitted $2,130.00 with the present petition on October 11, 2011.

However, the fees owed on October 11, 2011 were $2,205.00 -- $565.00 for the small entity 3 ½ year maintenance fee and $1,640.00 for the surcharge after expiration based on unintentional delay.

Petitioner should submit the $75.00 balance owed within TWO MONTHS of the mailing date of this letter. Extensions of time may not be obtained. The response to this Requirement for Information should include a cover letter entitled "Response to Request for Information." The failure to file a reply to the instant Request for Information will be interpreted as a desire to no longer pursue reinstatement of the patent and the Office will give no further consideration to the matter.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

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Senior Petitions Attorney
Office of Petitions

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SEP 29 2011

OFFICE OF PETITIONS

In re Application of :
Siani Lynee Pearson, et al. :
Application No.: 10/080,479 : ON PETITION
Filed: February 22, 2002 :
Attorney Docket No.: 82063553 :

This is a decision on the petition, filed September 28, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 23, 2011, 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 3621 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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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO CA 94304-1018

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SEP 29 2010

OFFICE OF PETITIONS

In re Application of :
Cleland et al. :
Application No. 10/080502 : ON APPLICATION FOR
Filing or 371(c) Date: 02/22/2002 : PATENT TERM ADJUSTMENT
Attorney Docket Number: :
146392000500 :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed June 9, 2010. Applicants petition for reconsideration of the patent term adjustment calculation to 115 days, not eighty (80) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon (1) an assertion that the Office erred in failing to calculate a delay of 94 days, (2) an assertion that the Office erred in failing to calculate an adjustment of 100 days, and (3) on the basis that the Office will take in excess of three years to issue this patent.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), as it relates to the assertion that the Office erred in failing to calculate delays of 94 days and 100 days, is **GRANTED to the EXTENT INDICATED**.

The Application for Patent Term Adjustment Including Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(b), 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**.

On May 3, 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 eighty (80) days.

On June 9, 2010, applicant timely submitted the instant application for patent term adjustment[1]. Applicants request that the Determination of Patent Term Adjustment be corrected from eighty

[1] PALM records show that the Issue Fee payment was received in the Office on June 9, 2010.

(80) days, as indicated on the Determination of PTA mailed May 3, 2010, to an adjustment of 115 days. Applicants aver that the Office failed to calculate a delay of 94 days in connection with the response to a non-final Office action, filed November 6, 2006, and that the Office erred in failing to calculate an adjustment in connection with the mailing of a Notice of Allowance and Issue Fee Due, mailed May 3, 2010, and (2) on the basis that the Office will take in excess of three years to issue this patent.

As to the assertion that the Office erred in failing to calculate a delay of 94 days in connection with the response to a non-final Office action, filed November 6, 2006, a review of Office records confirms that the Office mailed a non-final Office action on May 4, 2006. Applicants filed a reply to the Office action on November 6, 2006. The reduction commenced September 5, 2006, the day after the date that is three months after the date of mailing of the non-final Office action, and ending on the date the reply was filed, November 6, 2006. As such, pursuant to 37 CFR 1.704(b), the application is properly assessed a reduction of 94 days.

As to the assertion that the Office erred in failing to calculate an adjustment of 100 days in connection with the Notice of Allowance and Issue Fee Due, mailed May 3, 2010, Applicant avers that the Office mailed a final Office action on December 9, 2009; however, the final Office action was supplanted (replaced) by the Notice of Allowance and Issue Fee Due, mailed May 3, 2010. Applicants provide that in an interview summary mailed May 3, 2010, the Examiner stated, inter alia, that the the first action final was erroneously mailed.

Applicants' argument is not persuasive. On December 9, 2009, the Office issued an action as a result of the examination conducted pursuant to 35 U.S.C. 131. The subsequent action in this case, the Notice of Allowance and Issue Fee Due, does not negate the fact that a first Office action was mailed on December 9, 2009. Accordingly, the period of examination delay was properly calculated based on the December 9, 2009 date.

A further review of the Application for Patent Term Adjustment reveals that Applicants have erroneously calculated a delay of 63 days in connection with the response to the final Office action mailed March 23, 2009. Applicants filed an Amendment in response to the final Office action on August 25, 2009; however, the Amendment failed to place the application in condition for allowance. Applicants were so notified in an Advisory Action mailed September 21, 2009. Applicants thereafter filed a complete and proper reply to the final Office action on September 23, 2009. The reduction of 92 days pursuant to 37 CFR 1.704(b) beginning on the day after the date that is three months after the date of mailing of the Office action, June 24, 2009, and ending on the date the reply was filed, September 23, 2009, was properly assessed to Applicants.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of zero days (adjustments totaling 541 days less reductions totaling 555 days).

As to the Office's failure to issue the patent within 3 years of the filing date, knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been

determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and ***must*** include payment of the required fee under 37 CFR 1.18(e).

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. 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).

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[2] 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.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10080502 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10080502

Application Filing Date	02/22/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	541
A Delays	541	PTO Manual Adjustment	-94
B Delays	0	Applicant Delay (APPL)	461
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
149	09/28/2010		P028	Adjustment of PTA Calculation by PTO		94	0
129	05/03/2010		MN/=.	Mail Notice of Allowance			0
128	05/03/2010		N/=.	Notice of Allowance Data Verification Completed			0
127	05/03/2010		DOCK	Case Docketed to Examiner in GAU			0
126	05/03/2010		IREV	Issue Revision Completed			0
125	05/03/2010		DVER	Document Verification			0
123	05/03/2010		CNTA	Notice of Allowability			0
122	03/22/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
124	03/09/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
120	03/09/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
121	01/13/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
116	01/13/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
115	12/09/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
114	12/07/2009		CTFR	Final Rejection			0
113	10/13/2009		LET.	Miscellaneous Incoming Letter			0
112	10/07/2009		FWDX	Date Forwarded to Examiner			0
110	10/07/2009		FWDX	Date Forwarded to Examiner			0
108	10/07/2009		ABN9	Disposal for a RCE / CPA / R129			0
111	09/23/2009		AMPR	RCE- AF Processed			0
109	09/23/2009	06/23/2009	RCEX	Request for Continued Examination (RCE)		92	100
107	09/23/2009		BRCE	Workflow - Request for RCE - Begin			0
106	09/21/2009		MCTAV	Mail Advisory Action (PTOL - 303)			0
104	09/21/2009		CTAV	Advisory Action (PTOL-303)			0
105	09/18/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
103	08/27/2009		FWDX	Date Forwarded to Examiner			0
102	08/25/2009		A.NE	Amendment after Final Rejection			0
101	08/25/2009		XT/G	Request for Extension of Time - Granted			0
100	03/23/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
99	03/19/2009		CTFR	Final Rejection			0
95	01/28/2009		FWDX	Date Forwarded to Examiner			0
94	01/09/2009	10/09/2008	A...	Response after Non-Final Action		92	88
98	10/30/2008		IDSC	Information Disclosure Statement considered			0
93	10/30/2008		XT/G	Request for Extension of Time - Granted			0
92	10/30/2008		RCAP	Reference capture on IDS			0
91	10/30/2008		M844	Information Disclosure Statement (IDS) Filed			0
90	10/30/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
97	10/16/2008		IDSC	Information Disclosure Statement considered			0
96	10/16/2008		M844	Information Disclosure Statement (IDS) Filed			0
89	10/16/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
88	07/09/2008		MCTNF	Mail Non-Final Rejection			0
87	07/07/2008		CTNF	Non-Final Rejection			0
85	05/02/2008		FWDX	Date Forwarded to Examiner			0
86	04/08/2008		IDSC	Information Disclosure Statement considered			0
84	04/08/2008		A...	Response after Non-Final Action			0
83	04/08/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
82	02/07/2008		MCTNF	Mail Non-Final Rejection			0
81	02/04/2008		CTNF	Non-Final Rejection			0
76	11/29/2007		FWDX	Date Forwarded to Examiner			0
74	11/29/2007		FWDX	Date Forwarded to Examiner			0
72	11/29/2007		ABN9	Disposal for a RCE / CPA / R129			0
69	11/02/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
80	10/31/2007		IDSC	Information Disclosure Statement considered			0
78	10/31/2007		M844	Information Disclosure Statement (IDS) Filed			0
77	10/31/2007		FEE.	Fee Payment Recorded (fees filed separately e.g. not with original papers, etc).			0
75	10/31/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
71	10/31/2007		RCAP	Reference capture on IDS			0
70	10/31/2007		M844	Information Disclosure Statement (IDS) Filed			0
68	10/31/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
67	10/31/2007		BRCE	Workflow - Request for RCE - Begin			0
66	10/30/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
65	10/09/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
64	10/05/2007		CTAV	Advisory Action (PTOL-303)			0
62	10/03/2007		FWDX	Date Forwarded to Examiner			0
79	09/28/2007		IDSC	Information Disclosure Statement considered			0
63	09/28/2007		M844	Information Disclosure Statement (IDS) Filed			0
61	09/28/2007		AP/A	Amendment/Argument after Notice of Appeal			0
60	09/28/2007	06/29/2007	N/AP	Notice of Appeal Filed		91	55
59	09/28/2007		XT/G	Request for Extension of Time - Granted			0
58	09/28/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
57	09/25/2007		C.AD	Correspondence Address Change			0
56	09/25/2007		PA..	Change in Power of Attorney (May Include Associate POA)			0
55	03/29/2007	03/06/2007	MCTFR	Mail Final Rejection (PTOL - 326)	23		50
54	03/27/2007		CTFR	Final Rejection			0
53	01/31/2007		FWDX	Date Forwarded to Examiner			0
51	01/31/2007		FWDX	Date Forwarded to Examiner			0
48	01/31/2007		MNRAB	Mail Notice of Rescinded Abandonment			0
47	01/31/2007		NRAB	Notice of Rescinded Abandonment in TC			0
46	12/20/2006		MPREV	Mail-Petition to Revive Application - Granted			0
52	11/28/2006		SA..	Supplemental Response			0
45	11/28/2006		PET.	Petition Entered			0
44	11/16/2006		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
43	11/13/2006		ABN2	Aband. for Failure to Respond to O. A.			0
50	11/06/2006		A...	Response after Non-Final Action			0
49	11/06/2006		XT/G	Request for Extension of Time - Granted			0
42	05/04/2006		MCTNF	Mail Non-Final Rejection			0
41	05/01/2006		CTNF	Non-Final Rejection			0
40	03/16/2006		FWDX	Date Forwarded to Examiner			0
38	03/16/2006		FWDX	Date Forwarded to Examiner			0
36	03/16/2006		ABN9	Disposal for a RCE / CPA / R129			0
32	01/31/2006		MABN2	Mail Abandonment for Failure to Respond to Office Action			0

31	01/31/2006		MEXIN	Mail Examiner Interview Summary (PTOL-413)			0
29	01/30/2006		ABN2	Abend. for Failure to Respond to O. A.			0
30	01/27/2006		EXIN	Examiner Interview Summary Record (PTOL-413)			0
39	01/26/2006		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
37	01/26/2006	10/26/2005	RCEX	Request for Continued Examination (RCE)		92	27
28	01/26/2006		BRCE	Workflow - Request for RCE - Begin			0
27	07/26/2005	01/27/2005	MCTFR	Mail Final Rejection (PTOL-326)	180		23
26	07/21/2005		CTFR	Final Rejection			0
23	10/19/2004		FWDX	Date Forwarded to Examiner			0
20	10/14/2004		C.AD	Correspondence Address Change			0
19	10/14/2004		PA	Change in Power of Attorney (May Include Associate POA)			0
18	10/06/2004		C.ADB	Correspondence Address Change			0
17	10/06/2004		C.ADB	Correspondence Address Change			0
16	10/06/2004		C.ADB	Correspondence Address Change			0
25	09/27/2004		RCAP	Reference Capture on IDS			0
24.7	09/27/2004	09/27/2004	M844	Information Disclosure Statement (IDS) Filed			22
24	09/27/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
22	09/27/2004	06/25/2004	A...	Response after Non-Final Action		94	15
21	09/27/2004		XT/G	Request for Extension of Time - Granted			0
15	03/25/2004	04/22/2003	MCTNF	Mail Non-Final Rejection	338		-1
14	03/22/2004		CTNF	Non-Final Rejection			0
13	12/17/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
12	12/17/2003		RCAP	Reference Capture on IDS			0
10.7	10/07/2002		M844	Information Disclosure Statement (IDS) Filed			0
10	10/07/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
9	07/22/2002		DOCK	Case Docketed to Examiner in GAU			0
7	06/06/2002		OIPE	Application Dispatched from OIPE			0
6	06/04/2002		COMP	Application Is Now Complete			0
11.7	05/23/2002		M844	Information Disclosure Statement (IDS) Filed			0
11	05/23/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
5	05/23/2002		FLFEE	Payment of additional filing fee/Preexam			0
4	05/23/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
3	03/20/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
2	03/07/2002		SCAN	IFW Scan & PACR Auto Security Review			0
1	02/22/2002		IEXX	Initial Exam Team nn			0

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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)
7024945	2006-04-11	10080744	2002-02-22	F1-119

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/66 (03-09)
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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	/kerry hubick/	Date (YYYY-MM-DD)	2010-12-17
Name	Kerry Hubick		
Enter Reel and Frame Number		Remove	
Reel Number	017360	Frame Number	0047
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. 7024945
Issue Date: April 11,2006
Application No. 10080744
Filed: February 22,2002
Attorney Docket No. 24,577-18

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 16,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 16,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
2050 Main Street, Suite 1100
IRVINE, CA 92614

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,189,161 :
Issue Date: March 13, 2007 :
Application No. 10/080,816 : ON PETITION
Filed: February 21, 2002 :
Patentee(s): Michael S. Wiltshire, et. al. :

This is a decision on the petition under 37 CFR 1.378(c), filed on August 15, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. § 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). The petition lacks items (1) and (3) above.

With respect to item (1) above, the statement of unintentional delay is not considered to be submitted by a proper party as required by 37 CFR 1.378(d), which states that any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

In this regard, the petition is signed by one of four inventors. An unsigned paper or one not properly signed by a person having authority to prosecute an application or patent is not entered. Therefore, a properly signed petition under 37 CFR 1.378(c), by all the inventors is required, unless there is an assignee of entire, right, title and interest that complied with the requirements of 37 CFR 3.73(b).

37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain

of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank Statement under 37 CFR 3.73(b) is enclosed for petitioner's convenience.

With respect to item (3), a review of the record shows that petitioner submitted payment of $1,300 for the payment of the maintenance fee and surcharge for the above-identified patent. The fee payment of $1,300 has been applied as follows: $490 for payment of the 3 ½ year small entity maintenance fee and $810 towards the unintentional late payment surcharge. However, the proper surcharge for a patent expired unintentionally after the six months grace period is $1,640. Therefore, this patent cannot be reinstated until the deficiency of $830 (1640–810) has been submitted.

Further, it is noted that 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 correspondence address should be filed. However, Petitioner should note that a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding maintenance fees for the above patent, a "Fee Address Indication" and/or "Request for Customer Number" forms must be submitted. See attached USPTO forms PTO/SB/47 and PTO/SB/125.

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 above, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner.

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.

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund totaling $3,695, which includes the maintenance fee and surcharge. 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.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement
Blank Statement under 37 CFR 3.73(b) (FORM PTO/SB/96)
Fee Address Indication Form (FORM PTO/SB/47)
Request for Customer Number Form (FORM PTO/SB/125)

cc: Michael S. Wiltshire
4790 Caughlin Pkwy
Suite 359
Reno, Nevada 89519

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ORRICK, HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
2050 Main Street, Suite 1100
IRVINE, CA 92614

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,189,161 :
Issue Date: March 13, 2007 :
Application No. 10/080,816 : ON PETITION
Filed: February 21, 2002 :
Patentee(s): Michael S. Wiltshire, et. al. :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed on October 31, 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

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.
10/080,933	02/22/2002	Jianzhong Zhang	059864.00665	6502

11051 7590 01/10/2011
Squire, Sanders & Dempsey (US) LLP
Nokia Corporation
8000 Towers Crescent Drive, 14th Floor
Vienna, VA 22182

EXAMINER	
CORRIELUS, JEAN B	
ART UNIT	PAPER NUMBER
2611	

NOTIFICATION DATE	DELIVERY MODE
01/10/2011	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):

swhitney@ssd.com
ipgeneraltyc@ssd.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

Squire, Sanders, & Dempsey L.L.P.
8000 Towers Crescent Drive, 14th Floor
Vienna VA 22182

MAIL

JAN 10 2011

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
ZHANG, JIANZHONG, et al.
Application Serial No.: 10/080,933
Filed: February 22, 2002
For: **APPARATUS, AND ASSOCIATED METHOD, FOR A MULTIPLE-INPUT, MULTIPLE-OUTPUT COMMUNICATIONS SYSTEM**

DECISION
ON PETITION

This is a decision on the petition filed May 12, 2010 under 37 CFR 1.182 requesting that the objection to the drawings set forth by the examiner in the final Office action of February 16, 2010 be withdrawn. The petition is treated under 37 CFR 1.181.

The Petition is **Granted**.

In the final Office action of February 16, 2010, the examiner objected to Figures 1-3 of the drawings under 37 CFR 1.83. The Examiner alleged that the description of Figure 1 does not support the inclusion of a circuit block of "prefilter and feedback filter coefficients calculator." Further, with respect to Figure 2, the Examiner alleged that the input signal 53, input to joint optimizer 74, is not supported by the original disclosure, and therefore should be deleted. The Examiner further alleged that the output of prefilter 56 should feed the DFSE 58, and the DFSE 58 should include an output line. Further, with respect to Figure 3, the Examiner alleged that the input signal 53 to joint optimizer 74 should be removed as the optimizer is described to only receive estimates. The examiner further objected to Figure 2, alleging that the label "FIG. 2" interferes with the drawing. Applicants respectfully traverse this objection because the label does not interfere with any of the elements (boxes, lines, reference numerals) of Figure 2.

A careful review of the disclosure and drawings indicates that the features in question are supported as set forth by petitioner. Accordingly, the objection to the drawings is withdrawn.

The application file will be forwarded to the examiner for consideration of the Reply Brief filed August 17, 2010 and for appropriate action in due course.

Mark R. Powell

Mark R. Powell, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7167816
Issue Date: January 23,2007
Application No. 10081387
Filed: February 22,2002
Attorney Docket No. LSTCP005US

:
: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 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of January 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.

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)
7167816	2007-01-23	10081387	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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Roger H. Chu, Reg. # 52745/	Date (YYYY-MM-DD)	2012-01-24
Name	Roger H. Chu	Registration Number	52745

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte JOHN BARTHELOW CLASSEN

Appeal 2009-004501
Application 10/081,705
Technology Center 2100

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 41.3 and 1.8(b) and Conditional Petition Under 37 C.F.R. § 1.183," filed October 25, 2010 ("Petition"). The Petition requests that:

1. Papers mailed to the Office on August 1, 2008 be accepted as timely filed;

2. If necessary, waiver of the requirement of 37 C.F.R. § 1.8(b) that the Office be informed of its non-receipt of documents promptly after a party becomes aware of such non-receipt;

3. The Decision on Appeal entered August 23, 2010 be withdrawn; and

4. The Board again consider the appeal, including the papers mailed August 1, 2008 that were never received by the Office.

Filed with the Petition were supporting Declarations of Evelyn H. McConathy, James L. Gannon II, and Appellant John B. Classen, all dated

October 25, 2010, a Reply Brief and two substantive evidentiary Declarations, a Request for Oral Hearing, and a Request for Rehearing.

FINDINGS

1. Appellant filed an Appeal Brief on March 31, 2008.

2. The Examiner entered an Examiner's Answer on June 3, 2008.

3. In the Petition, Appellant's Attorney alleges that Appellant, via his attorney at the time, mailed a Reply Brief, two substantive evidentiary Declarations and exhibits, and a Request for Oral Hearing to the Office on August 1, 2008. Petition, ¶ 5.

4. The Reply Brief, substantive evidentiary Declarations, and Request for Oral Hearing have never been received by the Office.

5. On August 23, 2010, the Board of Patent Appeals and Interferences ("Board") mailed a Decision on Appeal ("Decision") affirming the Examiner's rejection of the pending claims.

6. The Declaration of attorney Evelyn H. McConathy, submitted in support of the Petition, provides sufficient facts to establish that the Reply Brief, substantive evidentiary Declarations, and Request for Oral Hearing were mailed to the Office via first class mail on August 1, 2008. McConathy Declaration, ¶¶ 5-6, 9-11.

7. Based on her prior experience, Ms. McConathy believed that eventually her firm would receive the return post card that was included with the papers mailed on August 1, 2008, and that the post card was necessary to establish that such mailing had occurred. McConathy Declaration, ¶¶ 13-14.

RELEVANT AUTHORITY

In respect to non-receipt of papers mailed to the Office, 37 C.F.R. § 1.8(b) provides:

> (b) In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed or decided with prejudice, or the prosecution of a reexamination proceeding is terminated pursuant to § 1.550(d) or § 1.957(b) or limited pursuant to § 1.957(c), or a requester paper is refused consideration pursuant to § 1.957(a), 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 that attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing, transmission or submission. 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.
>
> (c) The Office may require additional evidence to determine if the correspondence was timely filed.

In respect to waiver of the rules, 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).

In respect to evidence submitted with a reply brief, 37 C.F.R. § 41.41(a)(2) specifies:

> A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence.

DISCUSSION

Appellant's Request for Rehearing was timely filed on October 25, 2010. Thus, the application remains under the jurisdiction of the Board.

The Decision in this appeal was arrived at following proper procedure. Thus, the Decision will not be withdrawn.

Appellant has presented sufficient facts to establish that an extraordinary situation exists which requires waiver of the prompt action requirement of Rule 1.8(b)(1). Specifically, the facts relating to the delay by Appellant's Attorney in advising the Office of its non-receipt of the papers mailed to the Office on August 1, 2008 constitutes such an extraordinary situation.

However, with respect to consideration of Appellant's Reply Brief, either as a result of waiving the prompt action requirement of Rule 1.8(b)(1) or on the Request for Rehearing, the Brief relies on two substantive evidentiary Declarations filed concurrently with the Brief. As set forth

above, a reply brief shall not include any new evidence. Thus, irrespective of other issues, the Reply Brief is non-compliant and will not be considered.

DECISION

In view of the foregoing, the Petition is GRANTED to the extent that Appellant is granted a period of one month from the mailing date hereof to file a proper request for rehearing or take other appropriate action, e.g., file an RCE.

The Office acknowledges receipt of the fee for filing a petition under 37 C.F.R. § 1.183.

No action will be taken at this time on the Request for Oral Hearing. Should Appellant continue prosecution of this appeal, e.g., by filing a proper request for rehearing, the Board will entertain a petition to reconsider such Request.

James T. Moore
Acting Chief Administrative Patent Judge

Roger L. Browdy
Browdy and Niemark, P.L.L.C.
624 Ninth Street, NW
Washington, DC 20001

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)
6981838	2006-01-03	10083232	2002-02-26	GMRC-2-G-19605

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

PTO/SB/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.

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	/Mike Grubb/	Date (YYYY-MM-DD)	2011-05-31
Name	Mike Grubb		
Enter Reel and Frame Number		Remove	
Reel Number	017100	Frame Number	0878
Click ADD for additional Reel Number and Frame Number		Add	

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

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The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these 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. 6981838
Issue Date: January 3,2006
Application No. 10083232
Filed: February 26,2002
Attorney Docket No. PRCR18521

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 1,2011 ,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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HUEY THOMAS CROCHET
P O BOX 344
ONALASKA TX 77360

MAILED

MAR 06 2012

OFFICE OF PETITIONS

In re Application of :
HUEY THOMAS CROCHET :
Application No. 10/083,771 :
Filed: 02/27/2002 :
Title: DYNAMIC SNAG RESISTANT :
FISHING WEIGHT :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed August 10, 2006, to withdraw the holding of abandonment. The present petition was only recently forwarded to the Office of Petitions for a decision on the merits. The USPTO sincerely apologizes for any inconvenience.

This application became abandoned on January 19, 2006, for failure to pay the issue fee and publication fee on or before January 18, 2006, as required by the Notice of Allowance and Fee(s) Due mailed October 18, 2005. A Notice of Abandonment was mailed on July 18, 2006.

Initially, the Office must determine whether the application is, in fact, abandoned. Namely, the Office must review the present petition to evaluate if applicant'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 has considered applicant's assertions presented in this petition, but does not find them persuasive.

In this instance, there is no dispute that the a Notice of Allowance, a Notice of Allowability, and an attached Examiner's Amendment setting forth amendments agreed to by applicant were mailed on October 18, 2005, and received by applicant. The Notice of Allowance set a three month statutory period to pay the required issue fee and publication fee to avoid abandonment of the application. On

January 12, 2006, applicant submitted a petition to withdraw the application from issue prior to payment of the issue fee, without the required fee of $130.00. On June 27, 2006, the Director of Technology Center 3600 mailed a decision dismissing the petition to withdraw from issue due to the lack of the requisite petition fee. Furthermore, the decision advised applicant the application was abandoned by statute because the issue fee and publication fee were not paid within the three-month statutory period from the mailing date of the Notice of Allowance.

Upon reviewing the arguments presented in the petition and the application history, the Office concludes that the application is in fact abandoned and that the abandonment of the application is proper due to applicant's failure to pay the issue fee and publication fee in a timely manner and not by any error on the part of the USPTO. Accordingly, the filing of a petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is inappropriate in this instance.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

The filing of a petition under 37 CFR 1.137 is necessary to revive this abandoned application. See MPEP 711.03(c)(I). Applicant should consider filing a petition for revival of an application abandoned unintentionally under 37 CFR 1.137(b). The appropriate form is enclosed for applicant's convenience. A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Notice in form of payment of the issue fee and publication fee. Applicant must pay the current amounts for the issue fee of $870.00 and the publication fee of $300.00.

(2) The petition fee as set forth in 1.17(m) (currently $930.00 for a small entity); and,

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

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 electronically via the EFS-Web System.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Form for Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b).

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Mail Date: 08/04/2010

Applicant	: Frances Jiang	: DECISION ON REQUEST FOR
Patent Number	: 7647389	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/084,174	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/28/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **974** 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
www.uspto.gov

In re Patent No. 6551015
Issue Date: April 22,2003
Application No. 10084212
Filed: February 25,2002
Attorney Docket No. 22870.017C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 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 June 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)
6,551,015	2003-04-22	10/084,212	2002-02-25	67945/L617

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
◉	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required 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. Klinger/	Date (YYYY-MM-DD)	2011-06-22
Name	David W. Klinger	Registration Number	60705

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

SEP 23 2011

Paper No.

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application No. 10/084,258	:	
Hegde et al.	:	DECISION ON
Filed: February 25, 2002	:	REQUEST FOR
Attorney Docket No. 088245-5465	:	RECONSIDERATION OF
Title: METHOD AND SYSTEM FOR DELIVERING TECHNOLOGY AGNOSTIC RICH MEDIA CONTENT WITHIN AN EMAIL, BANNER AD, AND WEB PAGE	:	PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. §1.705(b)," filed on September 12, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is four hundred and fifty-four (454) days, not one hundred and twenty-one (121) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office 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 as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, 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). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

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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.

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.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11-17-09 Paper No.: _____

TO SPE OF : ART UNIT 3626

SUBJECT : Request for Certificate of Correction for Appl. No.: 10084326 Patent No.: 7363240

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

Valerie Jackson
Certificates of Correction Branch
703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The specification needs to be amended in the Brief Description of the Drawing to include Fig. 3A and 3B to correspond with drawing sheets

/Robert Morgan/ 3626
SPE **Art Unit**

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

Date: August 25, 2010

Patent No : 7,363,240 B1
Application No: 10/084,326
Issued : April 22, 2008
Inventor : Armentano, et al.
Title : **METHOD AND SYSTEM FOR ENHANCED MEDICAL TRIAGE**

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 provision of Rule 1.322 or R.1323.

Respecting the alleged error, the specification needs to be amended in the Brief Description of the Drawing to include Fig. 3A and 3B to correspond with drawing sheets. Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 or 255 the Code of Federal Regulation (C.F.R.) R1.322 or R1.323.

In view of the foregoing, your request is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period.

Valerie Jackson
Mary F. Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1573

Jessica Rogers
399 Park Avenue
New York, NY 10022

vj/MFD

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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FISH & RICHARDSON P.C. (NY)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
CHAIN :
Application No. 10/084,380 : DECISION ON PETITION
Filed: February 28, 2002 :
Attorney Docket No. 27580-0003001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 19, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This 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 May 12, 2010, or one (1) month from the Office communication mailed May 28, 2010, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 13, 2010. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) the required statement of unintentional delay.

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 the undersigned at (571)272-6735.

This application is being referred to Technology Center 1649 for further processing in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: MITCHELL BERNSTEIN
FISH & RICHARDSON P.C.
601 LEXINGTON AVENUE
NEW YORK, NY 10022

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JAN 25 2011

OFFICE OF PETITIONS

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVE
SUITE 5400
SEATTLE WA 98104

In re Application :
Joelle Thonnard :
Application No. 10/048,574 : DECISION ON APPLICATION
Filed: January 23, 2002 : FOR PATENT TERM ADJUSTMENT
Patent No. 7,632,516 :
Issued: December 15, 2009 :

This is a decision on the petition under 37 CFR 1.705(d), filed May 19, 2010. Patentee requests that the patent term adjustment under 35 U.S.C. 154(b) be corrected from one thousand eleven (1011) days to six hundred eighty-seven (687) days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

The above patent issued on December 15, 2009 with a patent term adjustment of six hundred one (601) days. Patentees timely filed a petition under 37 CFR 1.705(d) on February 9, 2010, asserting that the patent term adjustment should be six hundred eighty-seven (687) days. The Office mailed a decision on April 21, 2010, stating that the patent term adjustment was one thousand, eleven (1011) days. The Office determined a patent term adjustment of 1011 days based on an adjustment for PTO delay of 621 days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR § 1.703(a)(1), 5 days pursuant to 37 CFR 1.703(a)(2), and 651 days pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR § 1.703(b), reduced by 29, 90, and 93 days of applicant delay under 37 CFR 1.704(b), and 49 days of applicant delay under 37 CFR 1.704(c)(8).

However, Patentee point out that she should have been assessed Applicant delay due to the abandonment of the application. The application became abandoned on September 7, 2002, for applicant's failure to file a proper reply to a Notification of Defective Response mailed August 6, 2002, which set a one month period for reply. Applicant filed a grantable petition to revive under 37 CFR 1.137(b) on May 24, 2004, which was granted in a decision mailed by the Office within four months on September 16, 2004. Accordingly, Applicant delay under 37 CFR 1.704(c)(3) is 741 days, not 324 days as asserted by Applicant (Applicant incorrectly stated that the application became abandoned on October 29, 2003, the date the Office mailed the Notice of Abandonment).

In addition, a review of the file reveals that Applicant should have been assessed additional delay pursuant to 37 CFR 1.704(c)(10). The Office mailed a Notice of Allowance on March 12, 2008. In reply, Applicant filed an RCE on June 12, 2008, to which the Office responded by mailing a non-final Office action on September 19, 2008. Accordingly, pursuant to 37 CFR 1.704(c)(10), Applicant delay of one hundred (100) days should have been assessed.

In view thereof, the correct determination of patent term adjustment is **one hundred seventy (170) days** (1272 days of PTO delay, reduced by 1002 (29+90+49+93+741+100) days of Applicant delay).

Receipt of the $200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred seventy (170)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Anthony Knight
Director
Office of Petitions

Enc: draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,632,516 B2

DATED : December 15, 2009

INVENTOR(S) : Thonnard

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 1011 days.

Delete the phrase "by 1011 days" and insert – by 170 days--

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIRK M. KERKHOFF
9962 CHAPMAN ROAD
ROSEDALE BC VOX 1X2 CA
CANADA

MAILED
FEB 08 2011
OFFICE OF PETITIONS

In re Patent No. 6,746,179
Issue Date: June 8, 2004
Application No. 10/084,734
Filed: February 26, 2002
Attorney Docket No. KERD99A

DECISION ON REQUEST FOR REFUND

This is a decision on the Request For Refund filed, April 27, 2010 and supplemented on January14, 2011.

Applicant filed the above request for refund and states that "The Petition Under 37 CFR 1.378 was electronically filed and the EFS fee transmittal only gave the option to pay the full petition fee of $1,640.00 (which was previously paid). Therefore, Applicants included payment for $1,640.00 for the petition fee and $490.00 for the maintenance fee. Applicants request that the Patent Office refund the amount of $1,240.00 (the difference between the required $400.00 and the submission of $1,640.00) to Deposit Account 50-2866."

A review of Office finance records show that a total of $1,220.00 dated December 13, 2010 and a total of $20.00 dated December 28, 2010, were refunded to applicant by check (as it is the method in which the fees were paid) under the application no. 10/084,734, rather than the patent no. 6,746,179, which is the requested total of $1,240.00 to be refunded. Therefore, the request for refund of $1,240.00 has been provided.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

WESTERMAN, HATTORI, DANIELS & ADRIAN LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
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
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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)
7071233	2006-07-04	10084759	2002-02-26	MRX-86588

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/TWT/	Date (YYYY-MM-DD)	2010-09-09
Name	Thomas W. Tolpin	Registration Number	27600

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7071233
Issue Date: July 4,2006
Application No. 10084759
Filed: February 26,2002
Attorney Docket No. MRX-86588

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 10,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 10,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6859841	2005-02-22	10084815	2002-02-27	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required 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)	2010-09-03
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.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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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In re Patent No. 6859841
Issue Date: February 22,2005
Application No. 10084815
Filed: February 27,2002
Attorney Docket No. 42390P8220C3C

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 3,2010 ,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 September 3,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Foley, Hoag, LLP
Patent Group, World Trade Center West
155 Seaport Boulevard
Boston, MA 021110

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of :
Stefan Jansen :
Application No. 10/084,981 :
Filed: March 1, 2002 :
Attorney Docket No. NOD-00201 :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 10, 2010.

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 Stephen B. Deutsch and all attorneys/agents of record has been revoked by the assignee of the patent application on September 20, 2010. 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: Harrington & Smith
4 Research Drive
Suite 202
Shelton, CT 06484-6212

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills MI 48304

MAILED

NOV 10 2011

OFFICE OF PETITIONS

In re Patent No. 6,716,387 :
Issue Date: April 6, 2004 :
Application No.:10/085,372 : NOTICE
Filed: February 28, 2002 :
Attorney Docket No.:0114-00108 // BIG 0104 PUS :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed May 3, 2010.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Pursuant to petitioner's authorization, deposit account no. 02-3978 will be charged $2891.00. The change of status to a large entity has been entered and made of record.

Petitioner will not receive future correspondence related to maintenance fees for the patent unless a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) are submitted. A courtesy copy of this notice is being mailed to the address listed on the petition.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Petitions Attorney
Office of Petitions

CC: JOHN E. NEMAZI
BROOKS KUSHMAN P.C.
1000 TOWN CENTER, 22ND FLOOR
SOUTHFIELD MI 48075-4400

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Dickinson Wright PLLC
38525 Woodward Avenue
Suite 2000
Bloomfield Hills MI 48304

MAILED

NOV 22 2011

OFFICE OF PETITIONS

In re Patent No. 6,716,387 :
Issue Date: April 6, 2004 :
Application No.:10/085,372 : NOTICE
Filed: February 28, 2002 :
Attorney Docket No.: 0114-00108 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 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**. Pursuant to petitioner's authorization, deposit account no. 02-3978 will be charged $1,500.00.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this 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
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Alexandria, VA 22313-1450
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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OCT 04 2011
OFFICE OF PETITIONS

In re Application of :
Jou, et al. :
Application No. 10/085,581 : DECISION
Filed/Deposited: 2 February, 2002 :
Attorney Docket No. 020278 :

This is a decision on the petition filed on 23 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegation of
Unavoidable 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 showing/statement 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) as to the showing regarding unavoidable delay and a petition pursuant to 37 C.F.R. §1.137(b).

BACKGROUND

As discussed above, a review of the record reveals that:

Petitioner failed to reply timely and properly to the final Office action mailed on 26 October, 2010, with reply due absent extension of time on or before 26 January, 2011.

On 24 January, Petitioner filed a request and fee for extension of time and 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 3 February, 2011, the Examiner mailed an Advisory Action.

On 24 March, 2011, Petitioner filed a request and fee for extension of time and again 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[2] if it did not *prima facie* place the application in condition for allowance, and on 21 April, 2011, the Examiner mailed an Advisory Action.

The application went abandoned by operation of law after midnight 26 March, 2011.

The Office mailed the Notice of Abandonment on 22 June, 2011.

On 23 August, 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.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(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.

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.[3]

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[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] 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).)

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

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.[4],[5]

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.[6]

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.

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[4] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[5] 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.))

[6] 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).

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 2435 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[7]) 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

[7] 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
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Alexandria, VA 22313-1450
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FEB 28 2011

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK, NY 10104-3800

In re Application of Ledoussal et al. :
Application No. 10/085,786 : Decision on Petition
Filing Date: February 28, 2002 :
Attorney Docket No. 02911.012020.3 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 19, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Facts:

The instant application was filed February 28, 2002.

The Proctor & Gamble Company ("Proctor & Gamble") filed the application on February 28, 2002. At that time, Proctor & Gamble owned all rights to the application.

The Office mailed a non-final Office action on October 1, 2002. The non-final Office action set a three-month period for reply. Proctor & Gamble did not file a reply to the non-final Office or request an extension of time. As a result, the application became abandoned on January 3, 2003.

On March 18, 2003, Proctor & Gamble filed Application No. 10/392,476, which is a continuation application claiming priority to the instant application. Application No. 10/392,476 issued as a patent on February 1, 2005.

The Office mailed a Notice of Abandonment on April 17, 2003.

Procter & Gamble assigned the patent to the Warner Chilcott Company, LLC ("Warner") on October 30, 2009.

A power of attorney was filed by Warner on May 25, 2010, and the current representatives of record are the practitioners associated with Customer no. 05514.

The instant petition was filed October 19, 2010. The petition requests the Office revive the application for copendency with Application No. 10/392,476.

The petition is accompanied by a payment of $1,110 for a three-month extension of time.

The petition is accompanied by the required petition fee of $1,620.

The petition states,

> The entire delay in filing the required petition to extend the time for response to the Office action until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional.

Discussion

37 CFR 1.137(b)(3) states, "The Director may require additional information where there is a question whether the delay was unintentional." Therefore, the Office has the discretion to require additional information when a petition is filed under 37 CFR 1.137(b).

The petition was filed almost eight years after the application became abandoned. Proctor & Gamble owned the application at the time the application became abandoned until late 2009. The petition is signed by Attorney Raymond Mandra, who does not appear to have firsthand or direct knowledge of the facts and circumstances surrounding the entire period of abandonment.

In view of the facts above, the Office is requiring additional information concerning the abandonment of the application. Specifically, the Office requests the submission of a statement by a party with firsthand or direct knowledge of the facts and circumstances surrounding the period of abandonment prior to Warner obtaining ownership of the application.

As a courtesy, the Office notes both the instant application and Application No. 10/392,476 were filed by Attorney David Upite. Petitioner may wish to contact Attorney Upite concerning the information requested above. A possible telephone number for Attorney Upite is 513-983-7598.

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." The statement of unintentional language in the petition varies from the language set forth in 37 CFR 1.137(b)(3). The Office requests any renewed petition state "The entire delay in filing the required reply from the due date for the reply until the filing the instant petition pursuant to 37 CFR 1.137(b) was unintentional."

The petition includes a payment of $1,110 for a three-month extension of time. Payment for an extension of time is unnecessary when reviving an application. Therefore, the $1,110 has been credited back to Deposit Account No. 50-3939.

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.

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MAY 27 2011

OFFICE OF PETITIONS

Fitzpatrick Cella Harper & Scinto
1290 Avenue of the Americas
New York, NY 10104-3800

In re Application of Ledoussal et al. :
Application No. 10/085,786 : Decision on Petition
Filing Date: February 28, 2002 :
Attorney Docket No. 02911.012020.3 :

This is a decision on the petition under 37 CFR 1.137(b) filed April 15, 2011, to revive the above-identified application.

The petition is **granted**.

The Office mailed a non-final Office action on October 1, 2002. The non-final Office set a shortened statutory period for reply of three (3) months.

Application No. 10/392,476, filed March 18, 2003, is a continuation of the instant application.

A request for a three-month extension of time was inadvertently not filed in the instant case when Application No. 10/392,476 was filed. As a result, the instant application became abandoned on January 3, 2003, and Application No. 10/392,475 and the instant application lacked copendency. The petition seeks to revive the instant application to obtain copendency.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995, or if the application is a design application.

The requirements set forth above have been satisfied and the petition is granted.

Since this application is being revived for purposes of continuity only and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of Application No. 10/085,786.

A prior petition filed October 19, 2010, included a payment of $1,110 for a three-month extension of time. The February 28, 2011 decision on petition stated the $1,110 payment was unnecessary and the fee was credited back to Deposit Account No. 50-3939. A payment of $1,110 for a three-month extension of time was filed with the instant renewed petition. As previously stated, the fee is unnecessary and the $1,110 filed with the instant petition has been credited back to Deposit Account No. 50-3939.

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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AUG 11 2011

OFFICE OF PETITIONS

PHILIP D. FREEDMAN PC
1449 DRAKE LANE
LANCASTER, PA 17601

In re Application of	:	
Rincavage et al.	:	DECISION ON PETITION
Application No. 10/086,253	:	TO WITHDRAW
Filed: March 1, 2002	:	FROM RECORD
Attorney Docket No. RINCAVAGE-1	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 28, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office 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, which 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 replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The current request cannot be accepted at this time since the inventors name was not properly specified in the request to withdraw as attorney or agent of record. Any subsequent request must properly identify the first named inventor.

All future communications from the Office will be directed to above-listed address until otherwise properly notified by the applicant or a proper change of correspondence address have been submitted.

The Office mailed a Decision on Appeal on June 8, 2011.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

/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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MIMI DIEMMY DAO
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
SEVENTH FLOOR
12400 WILSHIRE BOULEVARD
LOS ANGELES CA 90025-1026

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,080,444 :
Issued: July 25, 2006 :
Application No. 10/086,491 : ON PETITION
Filed: February 28, 2002 :
Attorney Docket No. 003424.P029 :

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2010, 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 **GRANTED**.

This patent expired on July 26, 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.

Petitioner has submitted a petition under 37 CFR 1.137(b) which will be treated as a petition under 37 CFR 1.378(c). Since the statement contained in the instant petition varies from the language required by 37 CFR 1.378(c) the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.378(c) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Petitioner has submitted $1,620.00 towards the required $1,640.00 surcharge fee, thus creating a $20.00 shortage. This shortage will be charged to petitioner's deposit account as authorized on October 15, 2010.

Additionally, the address given on the petition differs from the new address of record. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record. Further, 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 the maintenance fees for the above-identified patent, the "fee address" and/or customer number forms should be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: James C. Scheller, Jr.
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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ARNOLD M. DE GUZMAN
DE GUZMAN AND CARPENTER LLP
5276 HOLLISTER AVENUE
SUITE 160
SANTA BARBARA, CA 93111

MAILED
JUN 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,185,232	:	
Issued: February 27, 2007	:	
Application No. 10/087,000	:	NOTICE
Filed: February 28, 2002	:	
Attorney Docket No. : 10009.000110	:	

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 patent no longer qualifies for small entity status. Accordingly, any future fees paid in this patent must be paid at the large entity rate.

The present communication is not signed by a registered patent practitioner of record. However, in accordance with 37 CFR 1.34(a), the signature of Kendal M. Sheets appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. While a courtesy copy of this communication is being mailed, the appropriate power of attorney or authorization of agent must be submitted if Mr. Sheets desires to receive future correspondence regarding this patent.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KENDAL M. SHEETS
CPA GLOBAL
2318 MILL ROAD, SUITE 12 FLOOR
ALEXANDRIA, VA 22314

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : March 18, 2010

TO SPE OF : ART UNIT 2189
SUBJECT : Request for Certificate of Correction for Appl. No /10/087251patent 7085879

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: _____

/Reginald G. Bragdon/ 2189

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,179,655 :
Issued: February 20, 2007 :
Application No. 10/087,602 : ON PETITION
Filed: March 1, 2002 :
Attorney Docket No. 063391-0302 :

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 patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 27 2010

OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 6,953,583	:	
Issue Date: October 11, 2005	:	
Application No. 10/088,004	:	NOTICE
Filed: June 5, 2002	:	
Attorney Docket No. 4662-1627	:	

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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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Patent of Arkinstall et al.	:	DECISION ON REQUEST
Patent No. 7,432,286	:	FOR
Issue Date: October 7, 2008	:	RECONSIDERATION OF
Application No. 10/088,074	:	PATENT TERM ADJUSTMENT
Filed: October 13, 2004	:	and
Atty Docket No. 220243US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 1, 2008, 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 nine hundred twenty-two (922) 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 nine hundred twenty-two (922) days is **GRANTED to the extent indicated herein.**

Patentees are informed that the Three Year Delay period is triggered by the application's commencement date, not the 371 fulfillment date. The commencement date is 30 months from the priority date claimed in the international application, or earlier. The priority date claimed in the international application is September 28, 1999. While early processing was requested, requirements were not met. Thirty months from the priority date is March 28, 2002, which is the date of commencement. Accordingly, the period of adjustment under § 1.702(b) is 1289 days, counting the number of days beginning on the day after three years after the application's commencement date, March 29, 2005, and ending on October 7,

2008, when the patent issued. The maximum Three Year Delay period is 1289 days, not 360 days as patentees assert. There are 601 days overlapping with the A delay period, not 39 days as patentees assert.

As such, the patent term adjustment is one thousand two hundred eighty-nine (1289) days. The calculation is as follows: 601 days of A delay + 1289 days of B delay - 601 days of overlap - 0 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 37 CFR 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 $200.00 fee set forth in 37 CFR 1.18(e) will be charged to patentees' deposit account. This fee is required and will not be refunded. 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 two hundred eighty-nine (1289)** 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 : 7,432,286 B1

DATED : **October 7, 2008** **DRAFT**

INVENTOR(S) : Arkinstall 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 601 days

Delete the phrase "by 601 days" and insert – by 1289 days--

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KING & SPALDING LLP
401 CONGRESS AVENUE
SUITE 3200
AUSTIN, TX 78701

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Application of :
Antonius Emmerink et al :
Application No. 10/088,682 : ON PETITION
Filed: July 9, 2002 :
Attorney Docket No. COMMUNICATION SYSTEM

This is a decision on the petition, filed April 28, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 24, 2011 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 2472 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SEP 13 2010

OFFICE OF PETITIONS

MATTHEW J. PEIRCE, ESQ.
1550 STARLIGHT CANYON AVENUE
LAS VEGAS NV 89123

In re Patent No. 6,763,548 :
Issued: July 20, 2004 :
Application No. 10/090,127 : DECISION ON PETITION
Filed: March 5, 2002 :
For: VACUUM CLEANER :

This is a decision on the petition filed on June 1, 2010, under 37 CFR § 1.378(b) to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **dismissed**.

37 CFR 1.33(b), which states.

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
>
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
>
> (3) An assignee as provided for under §3.71(b) of this chapter; or
>
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

The above petition was signed by only one inventor which is not proper.

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 July 20, 2004. The patent expired on July 21, 2008, for failure to timely submit the first maintenance fee.

Petitioner assert that the delay was unavoidable because petitioner hired Advent Patent Development to file the patent and to walk him through the patent process and that Advent Patent Development hired Matthew J. Peirce in Nevada to process his patent application.

Petitioners further states that, "At this time I don't think he's in business any more because he never forwarded me the patent maintenance dues. I tried to reach him and he's no where to be found.

I never received any mailing from the Patent Office or Matthew J. Peirce about my patent needing the maintenance fees paid."

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]

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

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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).

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]

In the present case, patentee apparently relied on Advent Patent Development appointee Matthew J. Peirce, to monitor and pay the maintenance fee as necessary. However the patent counsel or agent failed to timely pay the maintenance fee.

Unfortunately, the showing of record is that due to miscommunication between patentee and counsel, the maintenance fee for this patent was not paid. Delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay.[7] Specifically, delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c), and 37 CFR 1.378(b).[8] Furthermore, while petitioner allegedly chose to rely upon counsel, such reliance *per se* does not provide petitioner with a showing of unavoidable delay within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b).[9] Rather, reliance merely shifts the focus of the inquiry from petitioner to whether counsel acted reasonably and prudently.[10] Nevertheless, petitioners are bound by any errors that may have been committed by counsel.[11] Moreover, the Office is not the proper forum for resolving a dispute as to the effectiveness of communications between parties regarding the responsibility for paying a maintenance fee.[12]

Therefore, any showing of unavoidable delay must include a statement from petitioner's patent attorney, as well as any other

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[5] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.
[6] Id.
[7] In re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988).
[8] See Ray, at 619, 34 USPQ2d at 1789.
[9] See California Medical Products v. Technol Med. Prod., 921 F. Supp. 1219, 1259. (D. Del. 1995).
[10] Id.
[11] California, supra.
[12] Id.

attorney(s) of record during the period that payment of the maintenance fee was delayed, as to why action was not taken to timely submit the required maintenance fee while the patent was under that agent's control. Petitioner should send a letter (accompanied by a copy of this decision) to Peirce by registered or certified mail, return receipt requested, indicating to the agent that the USPTO is requesting his assistance in determining the circumstances surrounding the expiration of this patent, and is specifically requesting Peirce to provide a statement as to: (1) whether, and when, he first became aware that the first maintenance fee for this patent was due, and (2) why the maintenance fee was not timely submitted. Such statements should be accompanied by copies of any documents relevant to payment of the maintenance fee. In the event that Peirce fails to provide a statement within a person (e.g. within one (1) month) specified in such letter, petitioner should submit a copy of such letter and the return receipt indicating its delivery to the patent attorney or agent with any petition for reconsideration under 37 CFR 1.378(e).

Petitioner is reminded that any errors or omissions of patent counsel Matthew J. Peirce did not relieve petitioner from his obligation to exercise diligence with respect to this patent.[13] In the absence of an adequate showing of petitioners' diligence in this matter throughout the period in question, the actions or inactions of the patent counsel or agent will remain imputed to petitioner.[14]

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[15] Specifically petitioners' delay caused by the mistakes or negligence of their voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 41(c)(1) or 37 CFR 1.378(b).[16] Petitioners were not forced, but rather made a conscious decision to obtain the services of the chosen representative in payment of the maintenance fees for this

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[13] Douglas v. Manbeck, 1991 U.S. Dist. LEXIS 16404, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (applicant's failure over two and one half year period, to exercise any diligence in prosecuting his application overcame and superseded any omissions on the part of his representative).

[14] See In re Lonardo, 17 USPQ2d 1455 (Comm'r Pat. 1990).

[15] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[16] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

patent, and therefore must be held accountable for his actions, or lack thereof, before the Office.

Further, a patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay.[17] Under the statute and regulations, the Office has no duty to notify patentees 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.[18]

In summary, the showing of record does not support a finding of 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.[19] Additionally, petitioners' preoccupation with other matters which took precedence over the above-identified maintenance fee does not constitute unavoidable delay.[20]

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.

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

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[17] *See* Patent No. 4,409,763, *supra*; *see also* "Final Rules for Patent Maintenance Fees" 49 Fed. Reg. 34716, 34722-34723 (August 31, 1984), *reprinted in* 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

[18] Rydeen v. Quigg, 748 F. supp. at 900.

[19] 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).

[20] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

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
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

Cc:

RUBEN BIRLE
709 S. AGATE STREET
ANAHEIM CA 92804

UNITED STATES PATENT AND TRADEMARK OFFICE

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MACRONIX
C/O HAYNES BEFFEL & WOLFELD LLP
P. O. BOX 366
HALF MOON BAY CA 94019

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OFFICE OF PETITIONS

In re Patent No. 7,071,992 :
Issue Date: July 4, 2006 :
Application No. 10/090,176 : ON PETITION
Filed: March 4, 2002 :
Attorney Docket No: **MGPX 1514-1US** :

This is a decision on the petition filed October 1, 2010 under 37 CFR 1.378(c)[1], to accept the delayed payment of the maintenance fee for the above-identified patent and to change the entity status.

The petition under 37 CFR 1.378 (c) is **GRANTED.**

The patent issued on July 4, 2006. The first maintenance fee due could have been paid during the period from July 4, 2009 to January 4, 2010 or, with a surcharge during the period from January 5, 2010 to July 4, 2010. Accordingly, this patent expired on July 4, 2010 for failure to timely remit the first maintenance fee.

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. Fees in the amount of $980.00 for the first maintenance fee and $1,640.00 for the surcharge have been charged to the credit card provided.

In response to the request under 37 CFR 1.27(g)(2) and notification of loss of entitlement to small entity status, status as a Small Entity has been removed.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.378(c) provides that a petition to accept an unintentionally delayed payment of a maintenance fee must be filed within twenty-four months of the six-month grace period provided in § 1.362(e) and must include:
(1) The required maintenance fee set forth in § 1.20(e) through (g);
(2) The surcharge set forth in § 1.20(I)(2); and
(3) A statement that the delay in payment of the maintenance fee was unintentional.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh, PA 15213

MAILED

AUG 31 2010

OFFICE OF PETITIONS

In re Patent of Kotovsky :
Patent No. 6,997,267 :
Issue Date: February 14, 2006 : Decision on Petition
Application No. 10/090,515 :
Filing Date: March 1, 2002 :
Attorney Docket No. KOTOV-10 :

This is a decision in response to the petition under 37 C.F.R. § 1.377 filed March 12, 2010.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 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. § 1.377."

Procedural Background

The 3.5 year maintenance fee could have been timely paid with the surcharge under 37 C.F.R. § 1.20(h).as late as February 16, 2010.[1]

Petitioner, via Attorney Ansel Schwartz, mailed the following items by Express Mail on February 16, 2010:

1. "Notification of Loss of Status as a Small Entity" (1 page),
2. Maintenance fee transmittal letter (2 pages),
3. "Certification of Express Mailing (CEM) 37 C.F.R. § 1.10" (1 page), and
4. A check for $1060.

Petitioner mailed the items listed above to the following address:

United States Patent and Trademark Office
P.O. Box 371611
Pittsburg, PA 15250-1611

[1] February 14, 2010, was a Sunday and February 15, 2010, was as federal holiday.

The United States Postal Service ("USPS") returned the Express-Mail Package to Petitioner with the following stamped language added to the envelope: "Return to Sender No Longer at this Box Number."[2]

Since the maintenance fee and surcharge were not sent to a correct address the patent expired on February 15, 2010.[3]

Discussion

As a preliminary matter, the Office notes the 3.5 year maintenance fee for a large entity is $980, not $930. Therefore, $50 has been charged to Deposit Account No. 19-0737 per the general fee authorization in the copy of the original maintenance fee transmittal letter.

MPEP § 2580 states,

> 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.

As stated in the language above, the provisions of 37 C.F.R. § 1.377 do not apply unless the record demonstrates the fees were "filed prior to expiration of the patent."

The petition does not establish the Office physically received the maintenance fee and surcharge mailed February 16, 2010, and then returned the correspondence to the USPS to be returned to Petitioner. Absent proof the Office physically received the fees, the petition must satisfy the requirements set forth in 37 C.F.R. § 1.8(b) and/or 37 C.F.R. § 1.10(e) in order to demonstrate the fees were filed prior to expiration of the patent.

37 C.F.R. § 1.8(b) only applies to correspondence mailed or transmitted in accordance with 37 C.F.R. § 1.8(a) which requires mailed to correspondence to be "[a]ddressed as set out in § 1.1(a)," and 37 C.F.R. § 1.10(e) states the rule only applies to "correspondence addressed as set out in § 1.1(a)." Therefore, the fees cannot be considered timely filed unless the fees were addressed as set out in 37 C.F.R. § 1.1(a).

37 C.F.R. § 1.1 states,

> (a) Except as provided in paragraphs (a)(3)(i), (a)(3)(ii) and (d)(1) of this section, all correspondence must be addressed [as follows]....
> (d) Payments of maintenance fees in patents not submitted electronically over the internet and correspondence related to maintenance fees may be addressed to:

[2] Although the petition states a copy of the envelope is included as Attachment D, the Office is unable to locate the attachment. However, a copy of the envelope is unnecessary for the Office to treat the merits of the petition.

[3] The provisions of 35 U.S.C. § 21 do not extend the expiration date of a patent if the maintenance fee and required surcharge are not timely paid. *See* MPEP § 2506.

Director of the United States Patent and Trademark Office, Attn: Maintenance Fee, 2051 Jamieson Avenue, Suite 300, Alexandria, Virginia 22314.

The fees were not mailed to any of the addresses identified in 37 C.F.R. § 1.1. Therefore, the provisions of 37 C.F.R. § 1.8(b) and 37 C.F.R. § 1.10(e) have not been satisfied and the record fails to establish the fees were filed prior to expiration of the patent. Since the fees were not timely filed prior to expiration of the patent, the petition cannot be granted.

Petitioner asserts the correspondence was sent to the Pittsburgh address because the Office website stated payments of maintenance fees by Express Mail should be sent to the Pittsburgh address. Reliance on the website *might* be able support a showing of unavoidable delay under 37 C.F.R. § 1.378(b). However, such a fact is not the equivalent of proof the correspondence was mailed in compliance with 37 C.F.R. § 1.8(b) or 37 C.F.R. § 1.10(e).

Any request for reconsideration of the instant decision or petition under 37 C.F.R. § 1.378(b), as opposed to a petition under 37 C.F.R. § 1.378(c), should fully discuss of the extent to which Attorney Schwartz's use of the Pittsburgh address was reasonable. For example, was Attorney Schwartz aware the address set forth in 37 C.F.R. § 1.1 for maintenance fee payments was not the Pittsburgh address.

Attorney Schwarz is an attorney of record in the cases listed below. Any request for reconsideration or petition under 37 C.F.R. § 1.378(b) should indicate, for each case, whether or not Schwartz was the party who filed the maintenance fee, and if Schwarz did submit the fee, the mailing address used by Schwarz when submitting the payment.

Patent No.	Maintenance Fee	Date of Submission
6,351,335	7.5 year	January 25, 2010
6,997,574	3.5 year	February 12, 2010
6,373,612	7.5 year	January 25, 2010
6,352,392	7.5 year	January 25, 2010
6,997,558	3.5 year	December 17, 2009
6,406,846	7.5 year	October 19, 2009

If Petitioner does not wish to file a request for reconsideration, petition under 37 C.F.R. § 1.378(b), or petition under 37 C.F.R. § 1.378(c), Petitioner may request a refund of the $980 maintenance fee and the $130 surcharge. Any request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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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MAR 23 2011

OFFICE OF PETITIONS

Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh, PA 15213

In re Patent of Kotovsky :
Patent No. 6,997,267 :
Issue Date: February 14, 2006 : Decision on Petition
Application No. 10/090,515 :
Filing Date: March 1, 2002 :
Attorney Docket No. KOTOV-10 :

This is a decision in response to the petition under 37 C.F.R. § 1.377 filed October 12, 2010.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 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. § 1.377."

Procedural Background

Ansel Schwartz is the attorney of record. Schwartz's standard practice is to submit maintenance fee payments via credit card using the Office's website. However, in situations where the entity status needs to be changed for the patent, the maintenance fee is submitted by first class mail.

The 3.5 year maintenance fee could have been timely paid with the surcharge under 37 C.F.R. § 1.20(h).as late as February 16, 2010.[1]

On or about February 16, 2010, Schwartz initially went to the Office's website to pay the maintenance fee for the instant patent. Schwartz then recognized the status for the patent needed to be changed from small entity to large entity.

On February 16, 2010, Schwartz mailed the maintenance fee by Express Mail because he wanted to be able to track the package since the package was being mailed on the last day the fee could

[1] February 14, 2010, was a Sunday and February 15, 2010, was as federal holiday.

be timely paid. Schwartz had never made a payment for a maintenance fee for a U.S. patent using Express Mail prior to February 16, 2010.

The package mailed February 16, 2010, included the following items:

1. "Notification of Loss of Status as a Small Entity" (1 page),
2. Maintenance fee transmittal letter (2 pages),
3. "Certification of Express Mailing (CEM) 37 C.F.R. § 1.10" (1 page), and
4. A check for $1060.

Schwartz used the following address for the Office when he mailed the February 16, 2010 package:

> United States Patent and Trademark Office
> P.O. Box 371611
> Pittsburg, PA 15250-1611

Schwartz states he used the address above because the Office's website included a webpage[2] stating,

> Unless submitted electronically over the Internet at www.uspto.gov, payments of maintenance fees in patents should be mailed through the United States Postal Service to:
>
> > United States Patent and Trademark Office
> > P.O. Box 371611
> > Pittsburg, PA 15250-1611

The United States Postal Service ("USPS") returned the Express-Mail Package to Petitioner with the following stamped language added to the envelope: "Return to Sender No Longer at this Box Number."[3]

A petition under 37 C.F.R. § 1.377 was filed March 12, 2010.

A decision dismissing the petition was mailed August 31, 2010.

Discussion

The petition does not establish the Office physically received the maintenance fee and surcharge mailed February 16, 2010, and then returned the correspondence to the USPS to be returned to Petitioner. Absent proof the Office physically received the fees, the petition must satisfy the

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[2] A copy of the webpage, which appears to have been printed on February 22, 2010, was filed with the prior petition as Exhibit C.

[3] Although the petition states a copy of the envelope is included as Attachment D, the Office is unable to locate the attachment. However, a copy of the envelope is unnecessary for the Office to treat the merits of the petition.

requirements set forth in 37 C.F.R. § 1.8(b) and/or 37 C.F.R. § 1.10(e) in order to demonstrate the fees were filed prior to expiration of the patent.

37 C.F.R. § 1.8(b) only applies to correspondence mailed or transmitted in accordance with 37 C.F.R. § 1.8(a), which requires mailed to correspondence to be "[a]ddressed as set out in § 1.1(a)," and 37 C.F.R. § 1.10(e) states the rule only applies to "correspondence addressed as set out in § 1.1(a)." Therefore, the fees cannot be considered timely filed unless the fees were addressed as set out in 37 C.F.R. § 1.1(a).

The fees were not mailed to any of the addresses identified in 37 C.F.R. § 1.1. Therefore, the provisions of 37 C.F.R. § 1.8(b) and 37 C.F.R. § 1.10(e) have not been satisfied and the record fails to establish the fees were filed prior to expiration of the patent. Since the fees were not timely filed prior to expiration of the patent, the petition cannot be granted.

The requirement for the correspondence to be sent to an address identified in 37 C.F.R. § 1.1 *might* include correspondence sent to other *valid* addresses for the Office. However, the petition fails to indicate the Pittsburgh address was a valid address for the Office on February 16, 2010. For example, the petition does not state the same address was successfully used when paying other maintenance fees during late 2009 or 2010.

In view of the prior discussion, the petition cannot be granted.

Petitioner may wish to consider filing a petition under 37 C.F.R. § 1.378(b) to reinstate the patent. A petition under 37 C.F.R. § 1.378(b) must be accompanied by a $700 surcharge and must show the entire delay in paying the required maintenance fee from the due date for the fee until the filing of a grantable petition was unavoidable. Petitioner should feel free to contact the undersigned with any questions concerning filing a petition under 37 C.F.R. § 1.378(b) or any other matter addressed in the instant decision. A PDF-fillable petition under 37 C.F.R. § 1.378(b) form can be found at: http://www.uspto.gov/web/forms/sb0065.pdf.

Unless filed by EFS Web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh, PA 15213

MAILED
APR 25 2011
OFFICE OF PETITIONS

In re Patent of Kotovsky :
Patent No. 6,997,267 :
Issue Date: February 14, 2006 : Decision on Petition
Application No. 10/090,515 :
Filing Date: March 1, 2002 :
Attorney Docket No. KOTOV-10 :

This is a decision on the petition under 37 C.F.R. § 1.378(b), filed March 29, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The patent issued February 14, 2006. The 3.5 year maintenance fee was due from February 14, 2009, through August 14, 2009, or with a surcharge during the period from August 15, 2009, to February 16, 2010.[1] The fee was not timely paid. As a result, the patent expired February 15, 2010.[2]

Petitioner has met the requirements to reinstate the above-identified patent pursuant to 37 C.F.R. § 1.378(b). Therefore, the maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The 3.5 year fee of $980 could have been filed as late as February 16, 2010, with payment of a $130 surcharge. A petition under 37 C.F.R. § 1.377 was previously filed on March 12, 2010. The petition argued the 3.5 year fee was timely paid on February 16, 2010. The petition only included $80 of the $130 surcharge. Therefore, $50 was charged to Deposit Account No. 19-0737. Since relief is currently being granted under 37 C.F.R. § 1.378(b), the $130 surcharge is unnecessary and the $130 has been credited to Deposit Account No. 19-0737.

[1] February 14, 2010, was a Sunday and February 15, 2010, was as federal holiday.

[2] Pursuant to 35 U.S.C. § 21, the last date the maintenance fee could have been timely paid with a surcharge was extended to February 16, 2010. However, the patent expired on February 15, 2010, the provisions of 35 U.S.C. 21 "do not extend the expiration date of the patent if the maintenance fee and any required surcharge are not paid when required." Manual of Patent Examining Procedures ("MPEP") § 2506 (8th ed., Rev. 8, July 2010).

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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AT & T- Legal Department - Brendzel
ATTN: Patent Docketing
Rm 2A-207
Bedminster NJ 07921

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of :
James David Johnston et al. :
Application No. 10/090,544 : DECISION ON PETITION
Filed: March 4, 2002 :
Attorney Docket No. 1999-0660 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2011, 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 of Non-Compliant Amendment, mailed July 8, 2010, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 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 an amendment, (2) the petition fee of $1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

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 regarding this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2626 for appropriate action by the Examiner in the normal course of business on the reply received January 3, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Henry Brendzel
5 Gilbert Place
Millburn, NJ 07041

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MAILED

SEP 22 2010

OFFICE OF PETITIONS

SALVATORE J. MAIORINO
827 HYLAN BLVD.
STATEN ISLAND, NY 10305

In re Patent No. 6,957,755	:	
Issue Date: October 25, 2005	:	
Application No. 10/090,658	:	ON PETITION
Filed: March 5, 2002	:	
Attorney Docket No.: None	:	

This is a decision in response to the renewed petition, filed July 30, 2010, under 37 CFR 1.378(e) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The renewed petition is found to comply with the requirements of 35 U.S.C. 41(c) and 37 CFR 1.378(c) (d) and (e). Accordingly, the petition is **GRANTED**.

The 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

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)
6516240	2003-02-04	10090701	2002-03-04	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	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

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.

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	/###/ Archetype-Solutions, Inc./Ali Fenn/	Date (YYYY-MM-DD)	2011-09-20
Name	Ali Fenn		
Enter Reel and Frame Number		Remove	
Reel Number	024424	Frame Number	0502
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
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In re Patent No. 6516240
Issue Date: February 4,2003
Application No. 10090701
Filed: March 4,2002
Attorney Docket No. LEVI5-07023

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 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

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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
3404 E. Harmony Road
Mail Stop 35
FORT COLLINS CO 80528

AUG 30 2011

In re Application of
SU, HONG et al.
Application No.: 10/091,237
Filing or 371(c) Date: March 4, 2002
Attorney Docket Number: 10013661-1

DECISION ON
PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on April 20, 2011.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance mailed December 27, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on April 13, 2011.

Petitioner states that the issue fee transmittal and payment were timely authorized in the response on September 28, 2010. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission. The general authorization of the issue fee of $1510.00 and $300 for publication fee was charged to Deposit Account.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D Pinkney
Application Assistance Unit
Office of Data Management

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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Corporate Patent Counsel
nLight Photonics
5408 NE 88th Street Building E
Vancouver WA 98665

MAILED
MAR 27 2012
OFFICE OF PETITIONS

In re Patent No. 6,663,785 :
Issue date: December 16, 2003 :
Application No. 10/092,018 : ON PETITION
Filed: March 6, 2002 :
Attorney Docket No. NLIGHT-FULB001 :
For: BROAD SPECTRUM EMITTER ARRAY AND METHODS FOR FABRICATION THEREOF

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
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/092,018	03/06/2002	Zhe Huang	60988/P005US/10103489

CONFIRMATION NO. 7604

11014
Corporate Patent Counsel
nLight Photonics
5408 NE 88th Street Building E
Vancouver, WA 98665

POA ACCEPTANCE LETTER

OC000000053345298

Date Mailed: 03/27/2012

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/10/2012.

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)
6856618	2005-02-15	10092832	2002-03-07	1020.P8943X6

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	Fee	Code
◉	3 ½ year	(1551)
○	7 ½ year	(1552)
○	11 ½ year	(1553)

Small Entity

	Fee	Code
○	3 ½ year	(2551)
○	7 ½ year	(2552)
○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6856618
Issue Date: February 15,2005
Application No. 10092832
Filed: March 7,2002
Attorney Docket No. 1020.P8943X6

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 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 September 30,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael R. Schramm
350 West 2000 South
Perry UT 84302

MAILED

SEP 20 2010

OFFICE OF PETITIONS

In re Application of
Schramm
Application No. 10/092,878
Filed: March 6, 2002
Attorney Docket No. MRS-017U

DECISION ON PETITION

This is a decision on the petition filed April 7, 2010, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimers filed January 24, 2005, September 19, 2005, and August 12, 2006 be withdrawn. The $ 400.00 petition fee has been received.

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. Petitioner is advised that this is not a final agency decision.

The Office of Petitions will not withdraw/nullify a terminal disclaimer filed in an application without the express approval of the examiner in charge of the application. The undersigned has consulted with the examiner in charge of this application, Laura Edwards. Ms. Edwards has indicated that the terminal disclaimers should *not* be nullified. Accordingly, the terminal disclaimers will not be withdrawn.

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) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Schramm-Personal: Active
Michael R. Schramm
350 West 2000 South
Perry UT 84302

MAILED
NOV 05 2010
OFFICE OF PETITIONS

In re Application of	:	
Schramm	:	
Application No. 10/092,878	:	DECISION ON PETITION
Filed: March 6, 2002	:	
Attorney Docket No. MRS-017U	:	

This is a decision on the renewed petition filed October 26, 2010, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimers filed January 24, 2005, September 19, 2005, and August 12, 2006 be withdrawn.

The petition is **granted**.

Petitioner asserts that no double patenting rejection was ever applied with respect to claims 32, 44, or 46. Therefore, it would not be appropriate to maintain the terminal disclaimers against those claims. There is no further need for the disclaimers to remain recorded against this application. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioner's assertion. Accordingly, the terminal disclaimers filed January 24, 2005, September 19, 2005, and August 12, 2006 are withdrawn.

The application is being forwarded to the support staff of Technology Center G.A.U. 1713 in order to change USPTO records for the above-identified application consistent with this decision.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P.O. BOX 2245
MORRISTOWN NJ 07962-2245

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Application of :
WILSON, et al :
Application No. 10/092,883 : DECISION ON PETITION
Filed: March 8, 2002 :
Attorney Docket No. 18433 (H27180) :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 23, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 21, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 24, 2009.

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 $1510 and Publication Fee of $300; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this

application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for further processing.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: JAMES B. CONTE
HUSCH BLACKWELL SANDERS LLP
WELSCH & KATZ
120 SOUTH RIVERSIDE PLAZA, FLOOR 22
CHICAGO, IL 60606-3912

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

MAILED
MAR 13 2012
OFFICE OF PETITIONS

In re Patent No. 6,793,491 :
Issued: September 21, 2004 :
Application No.: 10/093,368 : NOTICE
Filed: March 7, 2002 :
Attorney Docket No: **2B14.1-081** :

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) 272-3222.

/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)
7,201,836	2007-04-10	10/093,680	2002-03-07	IP-0354MDCON

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
◉	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Bella Fishman/	Date (YYYY-MM-DD)	2011-07-13
Name	Bella Fishman	Registration Number	37485

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7201836
Issue Date: April 10,2007
Application No. 10093680
Filed: March 7,2002
Attorney Docket No. 067437-5026US03

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed July 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 July 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.

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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

AUG 02 2010

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Patent No. 7,437,288	:	
Issue Date: October 14, 2008	:	
Application No. 10/093,915	:	DECISION ON PETITION
Filed: March 11, 2002	:	
Attorney Docket No. 048369-0133	:	

This is a decision on the petition under 37 CFR 1.182, filed March 9, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

As authorized, the petition fee of $400 was paid by credit card.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735.

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 756-1556.

A copy of this decision is being sent to the Office of Data Management for issuance of a duplicate Letters Patent..

/ Thurman K Page /

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, Randolph Square, 9th Floor, Room D30-B (Fax No. (571) 270-9753)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI L.L.P.
Attn: MN IP Docket
600 Congress Avenue
Suite 2400
Austin TX 78701

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel L. Cosentino, et al.	:	
Application No. 10/093,948	:	DECISION GRANTING PETITION
Filed: March 7, 2007	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. CARD.P0003US.CP2	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, October 22, 2010 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 13, 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 should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 3687 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Christopher John Rourk
Jackson Walker LLP
901 Main Street, Suite 6000
DALLAS TX 75202

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of :
Florian Bohn et al. :
Application No. 10/094,055 : NOTICE
Patent No. 7,092,691 :
Filed: March 08, 2002 :
Attorney Docket No. **09AXI0009C.10**
(013641.19)

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/16/08

TO SPE OF : ART UNIT 3679 Bochna, David

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/944,171 Patent No.: 7014215

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ Approved	All changes apply.
xXkx☒ Approved in Part	Specify below which changes do not apply.
☐ Denied	State the reasons for denial below.

Comments: Changes to specification are approved. However, the change to patent claim 14, i.e., Col. 8, line 56 , first line of claim 14, is not approved. Claim 14 sets forth a "quick connect hose assembly" and the inclusion of "coupling" between "connect" & "hose" doe not alter that a hose "assembly" is still being claimed. Thus, this proposed change will not corre the noted problem arising from "said coupling". The only acceptable changes would be to either cha "hose assembly", claim 14, line 1, to --hose coupling-- or to change "said coupling", claim 14, lin 12, (i.e., Col. 9, line 1) to --said assembly--.

/Daniel P. Stodola/ 3679

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
www.uspto.gov

ACCENTURE INDY 33391
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS IN 46204-4220

MAILED

MAY 06 2011

OFFICE OF PETITIONS

In re Patent of Cameron et al.	:	DECISION ON REQUEST
Patent No. 7,895,336	:	FOR RECONSIDERATION OF
Issue Date: February 22, 2011	:	PATENT TERM ADJUSTMENT
Application No. 10/094,373	:	and
Filed: March 8, 2002	:	NOTICE OF INTENT TO ISSUE
Docket No. 10022/171	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on March 23, 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 six hundred seventy-six (2676) 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 six hundred seventy-six (2676) is **GRANTED**.

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). The maximum B delay period is 2177 days, beginning on March 9, 2005, which is one day after three years after the filing of the application on March 8, 2002, and ending on February 22, 2011, 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 1241 day period beginning on February 5, 2007, the date the Notice of Appeal was filed, and ending on June 29, 2010, the date the Board of Patent Appeals and Interferences issued a decision reversing the examiner. Excluding the 1241

days consumed by appellate review results in a period of B delay of 936 days (2177 - 1241).

Although the 1241 days consumed by appellate review is not part of the period of B delay, the 1241 days does constitute delay under 35 U.S.C. 154(b)(1)(C) ("C delay"). In other words, the successful appellate period of 1241 days is counted against the Office as a separate adjustment pursuant to 37 CFR 1.702(e) as C Delay.

In light thereof, the correct patent term adjustment is 2676 days, which is the sum of 531 days of delay under 35 U.S.C. 154(b)(1)(A) and 936 days of B Delay and 1241 days of C Delay, reduced by 32 day of Applicant delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 six hundred seventy-six (2676) 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 : 7,895,336 B2

DATED : **February 22, 2011** **DRAFT**

INVENTOR(S) : Cameron 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 2259 days

Delete the phrase "by 2259 days" and insert – by 2676 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110906

DATE : September 06, 2011

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction on Patent No.: 7524509

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

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)
6799515	2004-10-05	10094724	2002-03-11	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Michael I. Kroll/	Date (YYYY-MM-DD)	2010-10-05
Name	Michael I. Kroll	Registration Number	26755

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6799515
Issue Date: October 5,2004
Application No. 10094724
Filed: March 11,2002
Attorney Docket No. JL-1-GW

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 5,2010 ,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 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.

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/8/11

TO SPE OF : ART UNIT 2814

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/094,733 Patent No. 6,858,863

CofC mailroom date 5/16/11

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 changes to drawing figures 6 & 7

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1614 _____

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: _____

OLIK CHAUDHURI

[signature] (acting) 2814

SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
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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)
7239651	2007-07-03	10094768	2002-03-11	TRA-056

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

Patent Practitioner			
A signature of the applicant or representative is required 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 P. Gordon/	Date (YYYY-MM-DD)	2012-02-17
Name	David P. Gordon	Registration Number	29996

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 7239651
Issue Date: July 3,2007
Application No. 10094768
Filed: March 11,2002
Attorney Docket No. TRA-056

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 17,2012 ,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 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

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United States Patent and Trademark Office
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MAILED

NOV 02 2010

OFFICE OF PETITIONS

Stephen E. Feldman, P.C.
12 East 41st Street, Suite 1302
New York NY 10017

In re Application of :
JOSEPH JOSEPH :
Application No. 10/094,856 : DECISION ON PETITION
Filed: 03/12/2002 :
Title: REAL TIME INVENTORY DISPLAY :
AND RETAIL SALES SYSTEM :

This is a decision on the petition for revival of an application for patent abandoned unavoidably under 37 CFR 1.137(a) filed March 25, 2010. This is also a decision on the petition for revival of an application for patent abandoned unintentionally under 37 CFR 1.137(b) filed March 25, 2010.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The application became abandoned for failure to timely and proper reply within the meaning of 37 CFR 1.113 to the final Office action, mailed June 23, 2009, which set a shortened statutory period for reply of three (3) months. Petitioner obtained an extension of time to respond within the third month pursuant to 37 CFR 1.136(a). Accordingly, the application became abandoned on December 24, 2009. A Notice of Abandonment was mailed on February 5, 2010.

Petition under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must include payment of the

> issue fee or any outstanding balance. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.
>
> (2) The petition fee as set forth in 37 CFR 1.17(l);
>
> (3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

This petition lacks item and (3) above.

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 be "unavoidable". 35 U.S.C. § 133. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present. In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 13 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).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail,

telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

In the present petition, petitioner did not provide a "showing" of unavoidable delay. In particular, petitioner failed to explain why the events surrounding the delay were unavoidable.

The showing requirement can be met by submission of statements of fact establishing that the delay in filing the reply was unavoidable, as well as inadvertent. This must include: (1) a satisfactory showing that the cause of the delay resulting in failure to reply in timely fashion to the Office action was unavoidable; and (2) a satisfactory showing that the cause of any delay during the time period between abandonment and filing of the petition to revive was also unavoidable. Specifically, petitioner must provide the Office with a thorough explanation, accompanied by any documentary evidence, to support petitioner's argument that petitioner, or counsel for petitioner, took all action necessary to submit a timely and proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, the reply was not timely received in the USPTO. The Office reminds petitioner that an applicant's preoccupation with other matters that took precedence over an application does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Furthermore, delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981). Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

As petitioner has not provided a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, the petition under 37 CFR 1.137(a) is **dismissed**.

Petition Under 37 CFR 1.137(b)

While the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from seeking relief by filing a petition under 37 CFR 1.137(b) on the basis of unintentional delay.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(2) The petition fee 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 this paragraph was unintentional; and

(4) Any terminal disclaimer (and fee set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

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 this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of a RCE and an amendment and authorized the Office to charge the Deposit Account for the requisite fees. Accordingly, the petition under 37 CFR 1.137(b) is **granted**.

The $810.00 fee for filing the petition under 37 CFR 1.137(b) will be charged to petitioner's Deposit Account as authorized.

This matter is being referred to Technology Center Art Unit 3693.

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

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: 42P13061	Patent Number: 7,668,306
Filing Date (or 371(b) or (f) Date): 03-08-2002	Issue Date: 02-23-2010
First Named Inventor: Carl R. Strathmeyer	
Title: METHOD AND APPARATUS FOR CONNECTING PACKET TELEPHONY CALLS BETWEEN SECURE AND NON-SECURE NETWORKS	

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 /Shireen Irani Bacon/	Date July 14, 2010
Name (Print/Typed) Shireen Irani Bacon	Registration Number 40,494

***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 1 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.

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.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

(Not to be Submitted to the USPTO)

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).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

> Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

1. **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 this form is filed within 180 days of the day the patent was granted.

2. **For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at http://www.uspto.gov/patents/law/notices/2010.jsp.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 09/13/2010

Applicant	: Carl R. Strathmeyer	: DECISION ON REQUEST FOR
Patent Number	: 7668306	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/095,138	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/08/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1590** 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
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COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO, TX 78205-1521

MAILED

APR 28 2011

OFFICE OF PETITIONS

In re Patent No. 6,733,583	:	
Issue Date: May 11, 2004	:	
Application No. 10/095,219	:	NOTICE
Filed: March 11, 2002	:	
Attorney Docket No. 27130.13	:	

This is a notice regarding your request for acceptance of a fee deficiency submission filed April 5, 2011, under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

Alicia Kelley
Petitions Examiner
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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Feldman Gale, P.A.
Michael C. Cesarano
1700 Market Street
Suite 3130
Philadelphia PA 19103

MAILED
AUG 16 2011
OFFICE OF PETITIONS

In re Patent No. 6,557,481 :
Issue Date: May 6, 2003 : DECISION ON PETITION
Application No. 10/095,490 :
Filed: March 12, 2002 :
Title: COMBINED OUTRIGGER AND :
FISHING ROD HOLDER :

This is a decision in response to the petition under 37 CFR 1.378(b), filed May 27, 2011, to accept the unavoidably delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition under 37 CFR 1.378(b) is **dismissed**.

If reconsideration of this decision is desired, a "Petition for Reconsideration under 37 CFR 1.378(e)" must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400.00 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below because the Director will not undertaken any further reconsideration or review of the matter after a decision on the petition for reconsideration.

The patent issued on May 6, 2003. The second maintenance fee could have been paid during the period from May 6, 2010 through Monday, November 8, 2010, or with a surcharge during the period from Tuesday, November 9, 2010 through May 6, 2011. Accordingly, this patent expired on May 7, 2011, for failure to timely remit the second maintenance fee.

Patent practitioner, Michael C. Cesarano, set forth the following facts in support of a showing of unavoidable delay:

[] Following the issuance of the patent, I closed my files for that work and ceased having

direct contact with [petitioner] Mr. Schweid. However, as he and Mr. Bezold were friends, it is my understanding that they remained in contact with one another. On information and belief, Mr. Bezold informed Mr. Schweid that the date for payment of maintenance fees were docketed by the patent paralegals working for Akerman Senterfitt, and that Mr. Schweid would be notified when maintenance fee payments came due. To the best of my recollection, the policy of that firm was to docket patent maintenance fee due dates, but to inform clients that it was their responsibility to make the payments as they fell due. I do not know whether Mr. Schweid was given this advice, and I do not have access to his files at Akerman Senterfitt which may now have been destroyed.

[] I remained at Akerman Senterfitt until December 31, 2006, at which time I left that firm and began working with Feldman Gale, P.A., where I continue to be employed. When I left Akerman Senterfitt, I took a number of files of my clients with me, but did not take Mr. Schweid's patent files with me, as he remained a client of Mr. Bezold and that firm. At that time, I believed that any future patent work would be handled by that firm. I have not seen or spoken with Mr. Bezold since my departure from that firm, and I do not know whether he continues to be employed there.

[] In February, 2011, I was contacted by Jessica Godish, who was then a patent paralegal working in Feldman Gale's Philadelphia office, who notified me that a Notice to Mr. Schweid pay the seven and a half year maintenance fee had been delivered to that office, and had my name on it. At that time, I reviewed my electronic address book and archived e-mails in an attempt to locate his address to send the Notice to him. However, I was unable to locate any information regarding Mr. Schweid, and I surmise that I must have deleted his contact information and any e-mails, along with similar information for other former clients, at or about the time I changed law firms.

[] My attempts to locate Mr. Schweid's address were unsuccessful, and I asked Ms. Godish if she would review the PTO records to see whether an address was listed. The only address she could locate was the Florida Avenue address Mr. Schweid had given me at the start of the project. However, I was aware that Mr. Schweid no longer lived at that address, so did not ask to have the Notice sent there.

[] Proceeding under the belief that the patent department at Akerman Senterfitt would notify Mr. Schweid that his maintenance fee payment was due, I took no further action to locate him at that time, but requested Ms. Godish to check the PTO fee payment records from time to time to determine whether the fee had been paid. I also requested that she docket the final due date, and provide a reminder two weeks earlier, so that we could make another attempt to locate Mr. Schweid if the payment had not been made by then.

[] Because Mr. Schweid was not, and is not, a client of Feldman Gale, Ms. Godish's attempt to docket the payment due date and a two-week reminder, was not accepted by the firm's docketing system, although I was not aware of this at the time.

[] On or about May 3 or 4, 2011, Ms. Godish contacted me to inform me that she had just discovered that Mr. Schweid's payment date was two days hence, and that the payment had not yet been made. I then asked her to send the notice to Mr. Schweid's address listed on his patent, via an overnight delivery service.

[] On May 9, I received a telephone call from Mr. Schweid, informing me that the receptionist at his former address, which had been a condominium, had received the packet sent by Ms. Godish, and contacted him to pick it up. When he did so, he discovered for the first time that his patent had lapsed for failure to make the maintenance fee payment.

[] Although Mr. Schweid is not a client, and my duty to represent him ended at least when I left Akerman Senterfitt, in December, 2006, I am assisting him in filing this Petition as I believe that, under the circumstances, his delay in making the maintenance fee payment was unavoidable.

Declaration of Michael C. Cesarano, pp. 1-3.

In his Declaration, petitioner, Ian Schweid, further explained:

[] I am the inventor and owner of U.S. Patent No. 6,557,481, issued May 6, 2003.

[] When I applied for the patent application that issued as U.S. Patent No. 6,557,481 (the'481 patent), I owned and lived in a condominium located at 2801 Florida Avenue, Unit 225, Miami, Florida 33133. During that time, I retained the firm of Akerman Senterfitt, P.A., and Michael C. Cesarano, Esq., to prosecute my patent application.

[] Upon the issuance of the patent in 2003, I had no further need of Mr. Cesarano's services, and ceased having contact with him.

[] On information and belief, sometime between May, 2003 and May, 2011, Mr. Cesarano left the firm of Akerman Senterfitt, P.A. and joined the firm of Feldman Gale, P.A. I did not become aware that he had changed law firms until May, 2011.

[] On or about April, 2007, I received notice that a maintenance fee was due for the '481 patent, and paid the fee. I do not recall any details of my receipt of notice, and do not recall who contacted me.

[] On or about April, 2002, I moved, and now reside at 2785 Cristal Court, Miami, Florida 33133.

[] On or about May 6, 2011, I was contacted by a receptionist at my former residence who had retained information to contact me, and was told that an overnight delivery package had been left for me at that address. I picked-up and opened the package after work on the evening of May 6. Upon opening it, I first learned that a second maintenance fee for the

'481 patent had fallen due, and that the last day of the grace period for paying the fee had been May 6, 2011. The package had been mailed by a Patent Paralegal from the Philadelphia office of Feldman Gale, P.A., on May 4, 2011 and had been delivered to my former address on May 5, 2011.

[] On the next working day, Monday, May 8, I called the Philadelphia office of Feldman Gale, P.A., and was advised that Mr. Cesarano was in the firm's Miami office. This was my first notice that he was no longer with Akerman Senterfitt.

[] I thereafter spoke with Mr. Cesarano, who explained that my records and files had been left with his old firm, Akerman Senterfitt, at the time he left, and that he had not known my new address, and had not been able to contact me.

[] I have relied on my attorneys (either Akerman Senterfitt, P.A., or Michael Cesarano, Esq.) to provide timely notification of maintenance fees that become due.

Declaration of Ian Schweid, pp. 1-2.

A grantable petition to accept a delayed maintenance fee payment under 37 CFR 1.378(b) must include the following:

> (1) the required maintenance fee set forth in § 1.20(e) through (g);
>
> (2) the surcharge set forth in § 1.20(i)(1); and
>
> (3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

This petition lacks requirement (3).

As 35 U.S.C. 41(c) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 U.S.C. 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Id. Thus, where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

Acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 U.S.C. 133. This is a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912) (quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987). Moreover, patentee's lack of knowledge of the need to pay the maintenance fee and the failure to receive the Maintenance Fee Reminder do not constitute unavoidable delay. See Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988).

In determining whether the delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray v. Lehman, 55 F.3d 606, 608-609, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995). The patent owner at the time of the expiration of the patent is ultimately the person responsible to ensure the timely payment of the maintenance fees.

Petitioner argues that the delay was unavoidable because he relied on his "attorneys (either Akerman Senterfitt, P.A., or Michael Cesarano, Esq.) to provide timely notification of maintenance fees that become due." However, petitioner admitted that upon the issuance of the patent on May 6, 2003, he had no further need of Mr. Cesarano's services and ceased having contact with him. Mr. Cesarano also indicated that petitioner was no longer his client after his departure from Akerman Senterfitt in January 2007, and that he has not communicated with petitioner since he left that firm. Mr. Cesarano stated he did not take petitioner's files with him because petitioner remained a client of Mr. Bezold and Akerman Senterfitt. Therefore, it is evident that petitioner did not have a contractual agreement with Mr. Cesarano to track and docket the maintenance fee payments for this patent on his behalf. Additionally, the record shows that petitioner did not maintain a relationship with Mr. Cesarano since the issuance of his patent eight years prior nor did he provide Mr. Cesarano with his current address to

inform him of the due dates. Therefore, petitioner's reliance on Mr. Cesarano to track, docket and notify him of the maintenance fee due dates is not the action of a reasonably prudent person. Petitioner is reminded delay resulting from a failure in communication between a client and a registered practitioner is not unavoidable delay. In Re Kim, 12 USPQ2d 1595 (Comm'r Pat. 1988). Specifically, delay resulting from a lack of proper communication between a patent holder and a registered representative as to who bore the responsibility for payment of a maintenance fee does not constitute unavoidable delay within the meaning of 35 USC 41(c) and 37 CFR 1.378(b). See Ray v. Lehman, 55 F.3d 606, 610, 34 USPQ2d 1786, 1789 (Fed. Cir. 1995). Moreover, the Office is not the proper forum for resolving a dispute as to the effectiveness of communications between parties regarding the responsibility for paying a maintenance fee. Id

Petitioner stated that he received notice that the first maintenance fee was due for the '481 patent on or about April 2007, and that had paid the fee. However, petitioner asserted that he did not recall any details of his receipt of the notice nor who had contacted him. Therefore, it does not appear that petitioner remained in contact with Mr. Bezold or Akerman Senterfitt with regard to the maintenance fee due dates as he is unable to recall how and by whom he was informed of the need to pay the first maintenance fee. Petitioner did not provide any evidence that he had a contractual agreement with Mr. Bezold and Akerman Senterfitt to track, docket and notify him of the due date for the second maintenance fee. Petitioner did not show that he provided any money to Mr. Bezold or Akerman Senterfitt to cover their services or that he had informed them of his current contact information.

The Office reminds petitioner that where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b). Additionally, a patentee's preoccupation with other matters that may have taken precedence over timely payment of the maintenance fee does not constitute unavoidable delay. See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

If Mr. Bezold or Akerman Senterfitt were responsible for docketing the due date for the second maintenance fee, petitioner must provide a statement from a person with firsthand knowledge of events (e.g. Mr. Bezold or a member of the firm) describing the reasonable steps taken to ensure the timely payment of the second maintenance fee. Petitioner should provide a thorough explanation of the system that was in place at the time the maintenance fee was due. Petitioner should also submit documentary evidence to support the showing. The Office reminds petitioner that he is bound by the consequences of the actions or inactions of his duly authorized and voluntarily chosen representative. Therefore, any delay caused by the negligence or mistakes of petitioner's voluntarily chosen legal representative does not constitute unavoidable delay. Haines v. Quigg, 673 F. Supp. at 317; Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981).

It cannot be concluded that petitioner exercised the care or diligence that is generally used and observed by prudent and careful men in relation to their most important business. In particular, the evidence does not support a showing that petitioner took any steps to monitor the second maintenance fee or ascertain the due date for its timely payment. The patent owner may engage another to track and/or pay the maintenance fees; however, merely engaging another does not relieve the patent owner

from his obligation to take appropriate steps to ensure the timely payment of such maintenance fees. See California Med. Prods. v. Tecnol Med., 921 F. Supp. 1219 (D. Del. 1995). The Office reminds petitioner that the burden remains on the patent owner to track the due dates and make certain that the maintenance fees are paid in a timely manner to prevent expiration of the patent.

In summary, petitioner has not provided a sufficient showing that he exercised diligence observed by prudent and careful men in relation to their most important business. Moreover, petitioner did not demonstrate that he took reasonable steps to ensure timely payment of the second maintenance fee. Therefore, the Office is precluded from accepting the delayed payment of the maintenance fee under the unavoidable standard pursuant to 37 CFR 1.378(b). Accordingly, the petition under 37 CFR 1.378(b) is **dismissed**.

Petitioner should note that if this petition under 37 CFR 1.378(b)/(e) is not renewed, or if renewed and not granted, petitioner may obtain a refund of the maintenance fee and post-expiration surcharge. The $400.00 petition fee for seeking further reconsideration is not refundable

Any request for refund should be in writing to the following address:

Mail Stop 16
Director of the US Patent and Trademark Office
PO Box 1450
Alexandria, VA 22313-1450

A copy of this decision should accompany petitioner's request.

In the alternative, petitioner may wish to file a petition under 37 CFR 1.378(c), requesting that the Office accept the unintentionally delayed payment of the second maintenance fee. The additional surcharge due in this instance would be $940.00. A copy of the form for a Petition to Accept the Unintentionally Delayed Payment of Maintenance Fee in an Expired Patent (37 CFR 1.378(c)) accompanies this decision for petitioner's convenience.

A petition under 37 CFR 1.378(c) must be filed within twenty four months from the end of the six month grace period (i.e., 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, and (3) payment of the $1,640.00 surcharge **(the $700.00 surcharge previously paid may be credited thereto leaving a balance due of $940.00)** set forth in 37 CFR 1.20(i)(2).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Services Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be sent electronically via the EFS-Web System.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/66

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROCHE MADISON INC.
465 SCIENCE DRIVE
SUITE C
MADISON WI 53711

MAILED

NOV 22 2011

OFFICE OF PETITIONS

In re Patent No: 6,794,189
Issued: September 21, 2004
Application No. 10/095,682
Filed: May 10, 2002
Attorney Docket No. 25788 US2

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 27, 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 submitted by petitioner does not list the correct patent number for the above-identified patent. It appears petitioner is attempting to submit a fee deficiency payment for the Patent Number 6,794,189, but instead lists Patent Nos. 6,740,336 and 6,383,811 in petitioner's request. Petitioner must clearly identify the patent number for which the request for acceptance of a fee deficiency is being submitted. A proper request for acceptance of a fee deficiency submission under 37 CFR 1.28 is 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: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/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

BORDEN LADNER GERVAIS LLP
100 QUEEN STREET, SUITE 1100
OTTAWA, K1P 1J9 CANADA

MAILED
SEP 15 2011
OFFICE OF PETITIONS

In re Patent No. 6,590,438 :
Issued: July 8, 2003 :
Application No. 10/096,118 : ON PETITION
Filed: March 8, 2002 :
Attorney Docket No: PAT 3276-2US :

This is a decision regarding your request for acceptance of a fee deficiency submission and loss of small entity status filed March 21, 2011 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 under 37 CFR 1.28 is hereby accepted and the petition is **GRANTED**. Status as a small entity has also been removed.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3282.

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

Paper No.

MAILED

NOV 23 2010

OFFICE OF PETITIONS

Venture Pacific Law, PC
5201 Great America Parkway, Suite 270
Santa Clara CA 95054

In re Application of :
Ehsani et al. :
Application No. 10/096,194 : DECISION ON PETITION
Filed: March 11, 2002 : PURSUANT TO
Attorney Docket Number: SEH-001-C1 : 37 C.F.R. § 1.137(B)
Title: PHRASE-BASED DIALOGUE MODELING WITH PARTICULAR APPLICATION TO CREATING RECOGNITION GRAMMARS FOR VOICE-CONTROLLED USER INTERFACES :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed May 13, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-compliant Amendment (notice), mailed December 3, 2007, which set a shortened statutory period for reply of one month. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 4, 2008. A notice of abandonment was mailed on July 17, 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 has submitted the petition fee, an amendment, and the proper statement of unintentional delay. 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.[1]

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on May 13, 2010 can be processed in due course.

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.[2] 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

---

1 See Rule 1.137(d).

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 of Petitioner's further action(s).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 8/3/2010 Paper No.: _____

TO SPE OF : ART UNIT 2884

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/096227 Patent No.: 6710347

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 9C62-D
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1542

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: _____

DAVID PORTA
SUPERVISORY PATENT EXAMINER
SPE

2884
Art Unit

PAGE 1/1 * RCVD AT 8/2/2010 11:09:07 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/36 * DNIS:2732444 * CSID: * DURATION (mm-ss):00-34

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)
6,640,846	2003-11-04	10/097,149	2002-03-12	7321-104D2 (272/122)

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

◉ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

PTO/SB/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.

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	/RUDOLPH A. STRNAD/	Date (YYYY-MM-DD)	2011-12-16
Name	RUDOLPH A. STRNAD		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from 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. 6640846
Issue Date: November 4,2003
Application No. 10097149
Filed: March 12,2002
Attorney Docket No.

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 16,2011 ,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 16,2011 . 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.: _____

DATE : 8/21/08

TO SPE OF : ART UNIT 3723 Redding, David

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/097329 Patent No.: 7166459

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The corrections at column 22, line, 60, 61, 63 and 64 are not to be entered since the words to be changed do not appear at those locations listed.

SPE

3723
Art Unit