UNITED STATES 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.

LAW OFFICES OF ALBERT WAI-KIT
CHAN, PLLC
141-07 20TH AVENUE
WORLD PLAZA, SUITE 604
WHITESTONE NY 11357

MAILED

SEP 22 2010

OFFICE OF PETITIONS

Applicant:	:	ON PETITION
Cheung	:	under 37 CFR 1.181
Patent No: 7,737,258	:	and
Application No. 10/097,558	:	ON REQUEST FOR RECONSIDERATION
Filed: March 8, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	
638-B-US	:	
	:	

This is a decision on the petition under 37 CFR 1.181 filed on June 2, 2010, which is being treated as a request to invoke supervisory authority of the Director for reconsideration of the May 11, 2010 Patent Office petition decision.

Applicant's request that the 297 day delay from January 29, 2005 to November 21, 2005 be reconsidered as Applicant timely responded to each sequence listing notice by the Office within the time allotted. After further review, applicant's request is **GRANTED to the extent herein indicated.**

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 four hundred and forty two days (1554).

The Office finds the following:

1) "A" delay amounts to 872 days;

2) "B" delay amounts to 1083 days;

3) "C" delay amounts to 0 days;

4) Amount of overlap between "A" and B" delay amounts to 345 days;

5) "Applicant delay amounts to 56 days. See infra

25 days of applicant delay for IDS submitted on 9/9/2005 pursuant to 37 CFR 1.704(c)(8)

4 days of applicant delay for response submitted on 10/30/2006 pursuant to 37 CFR 1.704(b)

2 days of applicant delay for response submitted on 8/18/2006 pursuant to 37 CFR 1.704(b)

1 day of applicant delay for IDS submitted on 8/19/2008 pursuant to 37 CFR 1.704(c)(8)

24 days of applicant delay for IDS submitted on 10/13/2009 pursuant to 37 CFR 1.704(c)(10)

Accordingly, the overall PTA at the time of the issuance of the patent is 1554 (872 + 1083 + 0-345 -56) days.

The Office will remove the 160 days that was manually assessed to applicant in a decision mailed 5/10/2010 and will also remove the 112 days of applicant delay that was previously assessed by the Office for the response filed on 8/15/2005. The Office had originally determined that the responses were found to be non-compliant pursuant to 37 CFR 1.704(c)(8). However upon review, the Office finds applicant comments persuasive.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. In response to the Office's *sua sponte* issuing a certificate of correction, the Office will provide applicant one opportunity to be heard. Accordingly, the Office will provide applicant one month or (30) thirty days to respond. Applicant need not respond if applicant is in agreement with this decision. After the allotted period, the Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or

adjusted by **one thousand five hundred and fifty-four (1554)** days.

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,737,258

DATED : May 27, 2008 **Draft**

INVENTOR(S) : Cheung

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 (1282) days

Delete the phrase "by 1282 days" and insert – by 1554 days--

Day : Wednesday

PALM INTRANET

Date: 9/22/2010
Time: 09:55:30

PTA Calculations for Application: 10/097558			
Application Filing Date:	03/08/2002	PTO Delay (PTO):	1610
Issue Date of Patent:	06/15/2010	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	168
Post-Issue Petitions:	0	Total PTA (days):	1554
PTO Delay Adjustment:	112		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
164	09/22/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	272		
159.5	02/24/2008	PTA 36 MONTHS	1083		
159	06/15/2010	PATENT ISSUE DATE USED IN PTA CALCULATION	53		149
158	05/19/2010	EXPORT TO FINAL DATA CAPTURE			
157	05/18/2010	DISPATCH TO FDC			
156	05/11/2010	MAIL-PETITION DECISION - GRANTED IN PART			
155	05/11/2010	PETITION DECISION - GRANTED IN PART			
154	05/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		160	
154	05/10/2010	ADJUSTMENT OF PTA CALCULATION BY PTO			
153	12/21/2009	PETITION ENTERED			
150	03/16/2010	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
149	12/23/2009	ISSUE FEE PAYMENT VERIFIED			
147	12/23/2009	ISSUE FEE PAYMENT RECEIVED			
146	11/05/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
145	11/04/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
144	10/13/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
143	10/22/2009	SEQUENCE FORWARDED TO PUBS ON TAPE			
142	10/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
141	10/13/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		24	146
140	09/28/2009	EXPORT TO INITIAL DATA CAPTURE			

139	09/23/2009	MAIL NOTICE OF ALLOWANCE			
138	09/22/2009	ISSUE REVISION COMPLETED			
137	09/15/2009	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
136	09/11/2009	DOCUMENT VERIFICATION			
135	09/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
134	09/14/2009	NOTICE OF ALLOWABILITY			
131	07/27/2009	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
130	07/27/2009	REFERENCE CAPTURE ON IDS			
129	07/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
128	08/06/2009	DATE FORWARDED TO EXAMINER			
127	07/27/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
126	08/06/2009	DISPOSAL FOR A RCE / CPA / R129			
125	07/28/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
124	07/28/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
123	07/27/2009	PETITION ENTERED			
122	07/27/2009	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
121	07/27/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
120	01/30/2009	FINISHED INITIAL DATA CAPTURE			
119	12/04/2008	PETITION ENTERED			
118	01/13/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
117	01/05/2009	ISSUE FEE PAYMENT VERIFIED			
116	01/05/2009	ISSUE FEE PAYMENT RECEIVED			
115	11/14/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
114	11/03/2008	EXPORT TO INITIAL DATA CAPTURE			
113	10/30/2008	MAIL EXAMINER'S AMENDMENT			
112	10/30/2008	MAIL NOTICE OF ALLOWANCE			
111	10/29/2008	ISSUE REVISION COMPLETED			
110	10/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
109	10/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
108	10/29/2008	DOCUMENT VERIFICATION			

107	10/27/2008	EXAMINER'S AMENDMENT COMMUNICATION			
106	10/27/2008	NOTICE OF ALLOWABILITY			
103	07/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
98	08/19/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
97	07/18/2008	REFERENCE CAPTURE ON IDS			
96	07/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
95	08/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
94	08/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		1	92
93	09/08/2008	DATE FORWARDED TO EXAMINER			
92	08/18/2008	RESPONSE AFTER NON-FINAL ACTION		2	86
91	08/19/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
89	07/31/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
88	07/29/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
87	07/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
86	05/16/2008	MAIL NON-FINAL REJECTION			
85	05/12/2008	NON-FINAL REJECTION			
83	03/01/2008	DATE FORWARDED TO EXAMINER			
82	02/25/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
81	03/01/2008	DATE FORWARDED TO EXAMINER			
80	02/25/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
79	03/01/2008	DISPOSAL FOR A RCE / CPA / R129			
78	02/25/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
77	12/27/2007	MAIL FINAL REJECTION (PTOL - 326)			72
76	12/26/2007	FINAL REJECTION			
75	08/14/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
73	12/05/2007	DATE FORWARDED TO EXAMINER			
72	01/23/2007	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
		CRF IS GOOD TECHNICALLY / ENTERED INTO			

71	01/29/2007	DATABASE			
70	01/08/2007	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
69	01/03/2007	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
68	11/01/2006	MISCELLANEOUS INCOMING LETTER			
67	10/30/2006	NEW OR ADDITIONAL DRAWING FILED			
66	11/14/2006	DATE FORWARDED TO EXAMINER			
65	10/30/2006	RESPONSE AFTER NON-FINAL ACTION		4	62
64	11/06/2006	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
63.7	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
63	08/14/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
62	07/26/2006	MAIL NON-FINAL REJECTION			59
61	07/24/2006	NON-FINAL REJECTION			
60	07/24/2006	DATE FORWARDED TO EXAMINER			
59	11/21/2005	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
58	06/03/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
57	09/09/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	10/03/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	12/29/2005	CORRESPONDENCE ADDRESS CHANGE			
54	11/29/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
53	11/04/2005	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
52	11/02/2005	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
51.7	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		25	49
51	09/09/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	09/02/2005	DATE FORWARDED TO EXAMINER			
49	08/15/2005	RESPONSE AFTER NON-FINAL ACTION		112	45
48	08/23/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			

47	07/19/2005	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
46	05/11/2005	DATE FORWARDED TO EXAMINER			
45.1	04/25/2005	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
45	04/25/2005	RESPONSE AFTER NON-FINAL ACTION			
44	04/20/2005	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
43	04/19/2005	MISCELLANEOUS ACTION WITH SSP			
42	03/02/2005	DATE FORWARDED TO EXAMINER			
41	01/28/2005	RESPONSE TO A LETTER TO COMPLY WITH THE SEQUENCE RULES			
38	02/15/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
37	01/03/2005	MAIL LETTER REQUIRING CRF (UNREADABLE, NON-COMPLIANT, NOT SUBMITTED)			
36	12/30/2004	CRF DISKETTE UNREADABLE / DID NOT COMPLY / REQUIRED BUT NOT SUBMITTED			
35	10/29/2004	DATE FORWARDED TO EXAMINER			
34	10/22/2004	RESPONSE TO ELECTION / RESTRICTION FILED			
33	10/22/2004	WORKFLOW INCOMING AMENDMENT IFW			
32	09/22/2004	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
31	09/22/2004	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
30	08/24/2004	MAIL RESTRICTION REQUIREMENT	474		-1
29	08/23/2004	REQUIREMENT FOR RESTRICTION / ELECTION			
28	05/28/2004	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
27	11/07/2002	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
26	07/15/2002	CRF DOES NOT MATCH APPLICATION SPECIFICATION -- APPLICANT MUST CORRECT			
25	05/24/2004	PRELIMINARY AMENDMENT			
24	05/24/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
23	05/19/2004	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
22	05/19/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
21	05/24/2004	WORKFLOW INCOMING AMENDMENT IFW			

20	05/19/2004	WORKFLOW INCOMING AMENDMENT IFW			
19	03/12/2003	REQUEST FOR REFUND			
18	03/12/2003	REQUEST FOR REFUND			
17	03/12/2003	REQUEST FOR REFUND			
16.7	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	10/03/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	10/14/2003	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14.7	06/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/03/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
12	03/08/2002	PRELIMINARY AMENDMENT			
11	08/05/2002	CASE DOCKETED TO EXAMINER IN GAU			
10	07/18/2002	APPLICATION DISPATCHED FROM OIPE			
9	07/17/2002	APPLICATION IS NOW COMPLETE			
8	06/18/2002	ADDITIONAL APPLICATION FILING FEES			
7	06/18/2002	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
6	06/18/2002	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
4	04/13/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	04/12/2002	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
2	03/28/2002	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	03/08/2002	INITIAL EXAM TEAM NN			

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

UNITED STATES 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 17 2010

OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In re Application of :
Jayne Ansell :
Application No. 10/097,615 : ON PETITION
Filed: March 15, 2002 :
Attorney Docket No. 2002_0330A :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of September 13, 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)(II)(A)(2). Accordingly, the date of abandonment of this application is December 14, 2006. A Notice of Abandonment was mailed on May 17, 2007.

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 lack item (1).

As to item 1, the file record does not show that a response to the Office action mailed September 13, 2006 was submitted with the petition to revive. An extension of time is not a proper reply.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The 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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $490 extension of time fee submitted with the petition on May 5, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Darlene A. Vanstone
515 Groton Road, Unit 1R
Westford, MA 01886

UNITED STATES 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 13 2010
OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In re Application of :
Jayne Ansell :
Application No. 10/097,615 : ON PETITION
Filed: March 15, 2002 :
Attorney Docket No. 2002_0330A :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 30, 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, September 13, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 14, 2006. A Notice of Abandonment was mailed on May 17, 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 $1,620 and (3) a proper statement of unintentional delay. Accordingly, the filing of a continuing application under 37 CFR 1.53(b) is accepted as being unintentionally delayed.

The application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of a continuing application under 37 CFR 1.53(b).

It appears that the paper filed on May 5, 2010 along with the previous petition for revival was actually a supplemental document to the petition but was placed in our database as a "transmittal letter". The renewed petition makes note of this paper. The paper was a proper reply to the final rejection mailed September 13, 2006.

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.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Darlene A. Vanstone
Elmore Patent Law Group, P.C.
515 Groton Road, Unit 1R
Westford, MA 01886

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AT&T LEGAL DEPARTMENT – TKHR
ATTN: PATENT DOCKETING
ONE AT&T WAY
ROOM 2A-207
BEDMINSTER NJ 07921

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of :
Jordan :
Application No. 10/098,698 : DECISION ON PETITION
Filed: March 15, 2002 :
Attorney Docket No. 01136; :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 10, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal Office action mailed November 26, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received August 10, 2009.

/KOC/
Karen Creasy
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

SoCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

Mail Date: 10/06/2010

Applicant	: Michael Yeung	: DECISION ON REQUEST FOR
Patent Number	: 7664825	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/098,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/14/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **944** 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.

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)
6449782	2002-09-17	10099025	2002-03-15	22-0041

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

SMALL ENTITY

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

LOSS 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	/Jeffrey A. Proehl/	Date (YYYY-MM-DD)	2010-09-20
Name	Jeffrey A. Proehl	Registration Number	35987

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6449782
Issue Date: September 17,2002
Application No. 10099025
Filed: March 15,2002
Attorney Docket No. 22-0041

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

This is a decision on the electronic petition, filed September 20,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 20,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Tuggey Rosenthal Pauerstein Sandoloski Agather LLP
755 EAST MULBERRY STREET AVE
SUITE 200
SAN ANTONIO TX 78212

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,094,055 :
Issue Date: August 22, 2006 :
Application No. 10/099,107 : NOTICE
Filed: March 15, 2002 :
Attorney Docket No. P-5105.03(UTI) :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed August 10, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

This file is being forwarded to Files Repository.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PATRICK J. O'SHEA
O'SHEA, GETZ & KOSALOWSKI, P.C.
1500 MAIN STREET
SUITE 912
SPRINGFIELD MA 01115

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of :
Norbert Brill et al. :
Application No. 10/099,876 : NOTICE
Patent No. 6,972,116 :
Filed: March 15, 2002 :
Attorney Docket No. **6655**

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PATRICK J. O'SHEA**
O'SHEA, GETZ & KOSAKOWSKI, P.C.
1500 MAIN STREET SUITE 912
SPRINGFIELD MA 01115

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOWNSEND AND TOWNSEND AND
CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of

Jabri :

Application No. 10/099,901

: DECISION ON PETITION

Filed: March 12, 2002

:

Attorney Docket No. **021318-000110US**

This is a decision on the petition under 37 CFR §1.137(b), September 2, 2010, to revive the above-identified application.

The petition is **granted**.

The above-cited application became abandoned for failure to reply in a timely manner to the final Office action, mailed December 2, 2008, which set a shortened statutory period for reply of three (3) months from its mailing date. Accordingly, the application became abandoned on March 3, 2009. A Notice of Abandonment was mailed June 4, 2009.

The continuation application 12/455,491, filed June 2, 2009, is noted. Continuity between the subject application and the continuing application having been established, the subject application is again abandoned in favor of the continuing application.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/100,303	03/18/2002	Michael J. Caplan	2006517-0109 (CIP11)	9052

24280 7590 03/30/2011
CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

EXAMINER	
ZEMAN, ROBERT A	

ART UNIT	PAPER NUMBER
1645	

NOTIFICATION DATE	DELIVERY MODE
03/30/2011	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):

patentdocket@choate.com
jhess@choate.com
vlambergs@choate.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAR 3 0 2011

KATHERINE NICOLE CLOUSE, PhD
CHOATE, HALL & STEWART, LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

In re Application of
Caplan et al.
Serial No.: 10/100,303
Filed: March 18, 2002
Attorney Docket No.: 2006517-0109 (CIP11)

Decision on Petition

This letter is in response to the Request for Reconsideration filed on February 23, 2011, which is being treated as a Petition under 37 C.F.R. 1.181, to request reconsideration and withdrawal of the Advisory action of January 10, 2011 and to request guidance as required under 37 CFR 1.104(a)(2). .

BACKGROUND

On March 18, 2002, Applicant filed the present application as under 35 USC 111(a).

A requirement for restriction was mailed on March 10, 2004, with a supplemental requirement for restriction mailed on May 3, 2005. The Applicant responded to these requirements, respectively, on July 12, 2004 and August 5, 2005.

A First Action on the Merits was mailed on January 4, 2008. In this action, the Examiner rejected claims 41 and 43-44 on the grounds of nonstatutory double patenting; claims 41-45 on the grounds of failing to comply with the written description requirement under 35 USC 112, first paragraph; claims 41-45 for being indefinite under 35 USC 112, second paragraph; and claims 41-45 on multiple basis under 35 USC §§ 102(a) and 103(a).

The action set forth each of the 3 rejections at issue in the Petition.

The written description rejection under 35 USC 112, first paragraph was on the grounds that the claims lacked adequate written description support for any mutant version of the polypeptide of SEQ ID NO: 90 that comprise mutated IgE binding epitopes resulting in reduced ability of the polypeptide to bind to IgE from an allergic patient.

The indefiniteness rejection under 35 USC 112, second paragraph was on the grounds that the claims referred to a polypeptide "substantially identical" to a wild-type polypeptide. The rejection asserted that the scope of the claims were not clear as the "substantially identical" was not specifically defined in the specification, and is therefore an undefined term of degree.

Among the art rejections, was also the obviousness rejection under 35 USC 103(a) of claims 41-45 over the teachings of Ferreira et al. (FASEB, 1998, Vol. 12, pages 231-242).

In each instance, the Examiner set forth the basis of the rejection, including indications as to why the claims were considered not to meet the requirements of the relevant statute.

In the Responses of July 7, 2008 and February 9, 2009, the Applicant presented arguments in traversal of the rejections, which arguments were addressed in the Final action mailed on June 29, 2009.

On December 29, 2009, the Applicant filed an RCE which presented substantially the arguments described in the present petition.

A new Non-Final action was mailed on March 19, 2010 addressing these arguments.

Substantially the same arguments were presented in the Applicant's Response of June 21, 2010 (which added claim 48), and in the After-Final amendment of December 16, 2010.

The Examiner responded to these submissions in the Final action of September 16, 2010 (which extended the written description rejection to new claim 48), and in the Advisory action of January 10, 2011.

DISCUSSION

The Applicant has submitted the Petition asking that the Advisory action of January 2011 be withdrawn, and that the Examiner be instructed to provide the information set forth on pages 3-6 of the Petition. In particular, the Applicant asserts that the Examiner has provided only conclusory statements in response to the Applicant's arguments, and has provided no "useful guidance to the Applicant regarding what steps could or must be taken to progress prosecution."

The Applicant asserts that they are entitled to such guidance under rule 37 CFR 1.104(a)(2). This rule states:

> The applicant, or in the case of a reexamination proceeding, both the patent owner and the requester, will be notified of the examiner's action. The reasons for any adverse action or any objection or requirement will be stated in an Office action and such information or references will be given as may be useful in aiding the applicant, or in the case of a

reexamination proceeding the patent owner, to judge the propriety of continuing the prosecution.

As was indicated above, the Office action of January 2008 set forth the grounds of rejection, including indications as to why the claims were being rejected. See e.g., pages 5 and 6-7 (regarding the written description rejection-indicating that the claims should be amended so as not to read on the mutant polypeptides rejected), page 9 (regarding the indefiniteness rejection- indicating that the claims should be amended to more clearly define the boundaries of the mutant polypeptides), and page 13 (indicating how the Ferreira reference renders the claimed compositions obvious). Such indications implicitly provide guidance to the Applicant as to what steps could be taken to progress prosecution.

It is noted that among the information and guidance items requested by the Applicant, the Applicant requests an indication as to "what claim amendments would be sufficient, in the Examiner's view, to match the claims to the provided description" and therefore to overcome the written description rejection. As was noted above, some guidance is implicitly provided in the rejection itself.

However, it is noted that there is no requirement in 37 CFR 1.104(a)(2) that the Examiner provide to the Applicant specific suggestions as to what amendments would be considered to make the claims patentable. MPEP § 707 gives a somewhat more complete indication as to what is required by the Examiner in an action. There is no indication in this, or any other section of the MPEP, that the Examiner is required to determine what amendments may render a claim patentable.

If the Applicant desires more specific guidance, the Applicant has the option to request an interview with the Examiner to discuss potential claim amendments or other means for overcoming the rejections, if any.

With respect to the various issues identified by the Applicant in the Petition, a review of the Examiner's actions indicates that these issues have in fact been addressed. See e.g., pages 12 and 16-17 of the June 2009 action; pages 6-7, 11-12, and 13-14 of the March 2010 action; and pages 5-8, 12-13, and 14-15 of the September 2010 action.

If the Applicant remains unconvinced by the Examiner's arguments, the Applicant has the option of bringing the case to appeal before the Board of Patent Appeals and Interferences for a determination as to the propriety of the rejections.

It is noted that, on page 2, the Petition "incorporates by reference the Request for Withdrawal" submitted in response to the Final action on December 16, 2010. It appears that the Applicant is additionally asking for relief in the form of items A. – G. as identified on pages 2-3 of the Petition.

Item B. is a request that the Final action of September 16, 2010 be withdrawn. As the Examiner appears to have responded to Applicant's arguments, and as the action was properly made final as necessitated by amendment, the granting of this request does not appear appropriate at this time.

Item C. is a request that the fee for filing a Request for Continued Examination (RCE) be refunded. As it was the Applicant's decision to file the RCE of December 29, 2009 rather than going to appeal, the granting of this request is also deemed inappropriate at this time.

Item E. is a request that the period of delay between the period October 21, 2010 and any date on which a future new action is mailed be calculated as USPTO delay for the purposes of calculating patent term adjustment. As the case has not been allowed, and as no such action has been submitted, it appears that this item is not yet ripe for decision.

Item F. is request that if the Examiner should find the arguments set forth in the Request for Withdrawal to be unpersuasive, then the Examiner should mail a new non-final action addressing each of the issues noted on pages 3-6 of the Petition.
The remaining items (A, D and G) are further requests that the Examiner respond to the issues raised. As the record indicates that these issues have been addressed by the Examiner in the mailed actions, there is no need for an additional action responding to these issues (item F), or any need for further response by the Examiner to these arguments at the present time (items A, D, and G).

DECISION

For these reasons above, the petition under 37 C.F.R. 1.181 is **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

The period of reply to the Notice of Appeal submitted on December 16, 2010 continues to run.

Should there be any questions regarding this decision, please contact Supervisory Patent Examiner Zachariah Lucas, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-872-9306.

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CAESAR, RIVISE, BERNSTEIN
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

MAILED

OCT 27 2011

OFFICE OF PETITIONS

In re Patent No. 6,596,072 :
Issue Date: July 22, 2003 :
Application No. 10/100,390 : NOTICE
Filed: March 18, 2002 :
Patentee(s): Jack Dunnous, et. al. :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed on September 20, 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.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of George Wheeler appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. Therefore, a courtesy copy of this Notice is being mailed to the address given in the present request.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: George Wheeler
McAndrews, Held & Malloy, Ltd.
500 West Madison Street, 34th Floor
Chicago, IL 60661

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7865430 B1
Application No.: 10/100680
Inventor(s) : H. Brock Kolls
Issued : 01/04/2011
Title : CASHLESS TRANSACTION PAYMENT MODULE
Attorney Docket No.: USE-685US

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

By fax: 571-273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors noted in the request.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates of Correction Branch
(703) **756-1593** or (703) 756-1814
Date: 02/03/2011

Address: Stephen J. Weed
RatnerPrestia
P.O. Box 980
Valley Forge, PA 19482

ts/md

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RATNERPRESTIA
PO BOX 980
VALLEY FORGE PA 19482

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,865,430 :
Issue Date: January 4, 2011 :
Application No. 10/100,680 : DECISION ON PETITION
Filed: March 18, 2002 :
Attorney Docket No. USE-685US :

This is a decision on the "REQUEST FOR CORRECTION OF ASSIGNEE UNDER 37 C.F.R. 3.81(b)", filed February 15, 2011.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

[1] See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

Receipt of the $130 processing fee and $100 fee for the Certificate of Correction is acknowledged.

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

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

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 10

WAYNE FLOE
48473 STATE HWY 65
MCGREGOR MN 55760

MAILED
FEB 09 2011
OFFICE OF PETITIONS

In re Patent No. 6,616,388
Issue Date: September 9, 2003
Application No. 10/100,724 : DECISION ON PETITION
Filed: March 19, 2002
Patentee: Wayne Floe

This is a decision on the petition under 37 CFR 1.378(b), filed January 19, 2011, to accept the unavoidably delayed payment of the maintenance fee for the above-identified patent.

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

The above-identified patent issued September 9, 2003. Accordingly, the first maintenance fee could have been paid during the period from September 9, 2006 through March 9, 2007 without surcharge, or with a late payment surcharge during the period from March 10, 2007 through September 9, 2007. No maintenance fee having been received, the patent expired on September 10, 2007.

Petitioner asserts that the entire period of delay from September 10, 2007 to the filing of the instant petition on January 19, 2011 was unavoidable. Specifically, petitioner states that he never received a maintenance fee reminder from the Office, and that he relies on the reminders to make sure his maintenance fees are paid in a timely manner.

37 CFR 1.378(b) provides that:

> Any petition to accept an unavoidably delayed payment of a maintenance fee must include:
>
> (1) The required maintenance fee set forth in 37 CFR 1.20(e) through (g);
>
> (2) The surcharge set forth in 37 CFR 1.20(i)(1); and
>
> (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The instant petition does not meet requirement (3) above.

With regards to requirement (3), acceptance of a late maintenance fee under the unavoidable delay standard is considered under the same standard for reviving an abandoned application under 35 USC 133. **This is a very stringent standard.** Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

While the delay in payment of the maintenance fee may have been unintentional, petitioner has failed to provide an adequate showing that the delay was unavoidable. Petitioner has not demonstrated that he had took reasonable care to pay the

maintenance fee. Petitioner has not enumerated the steps he had in place to ensure timely payment of the maintenance fee.

Delay resulting from petitioner's lack of receipt of any maintenance fee reminder(s), or petitioner's being unaware of the need for maintenance fee payments, does not constitute "unavoidable" delay.[1] Under the statutes and regulations, the Office has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee is due. While the Office mails maintenance fee reminders strictly as a courtesy, it is **solely the responsibility of the patentee to ensure that the maintenance fee is timely paid to prevent expiration of the patent.** The failure to receive the Reminder does not relieve the patentee of the obligation to timely pay the maintenance fee, nor will it constitute unavoidable delay if the patentee seeks reinstatement under the regulation.[2] Moreover, a patentee who is required by 35 USC 41(c)(1) to pay a maintenance fee is not entitled to any notice beyond that provided by publication of the statute.[3]

Furthermore, the Letters Patent contains a Maintenance Fee Notice that warns that the patent may be subject to maintenance fees if the application was filed on or after December 12, 1980. While the record is unclear if petitioner ever read the Notice, petitioner's failure to read the Notice does not vitiate the Notice, nor does the delay resulting from such failure to read the Notice establish unavoidable delay.[4] The mere publication of the statute was sufficient notice to petitioner.[5]

Conclusion:

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision.

---

[1] See In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)), aff'd, Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd, 937 F.2d 623 (Fed. Cir. 1991)(table), cert. denied, 502 U.S. 1075 (1992). See also "Final Rules for Patent Maintenance Fees," 49 Fed. Reg. 34716, 34722-23 (Aug. 31, 1984), reprinted in 1046 Off. Gaz. Pat. Office 28, 34 (September 25, 1984).

[2] Rydeen, 748 F. Supp at 905.

[3] Id. at 906.

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

[5] Rydeen at 906.

Anysuch petition for reconsideration **must be accompanied by the $400** petition fee set forth in § 1.17(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Commissioner. Accordingly, on request for reconsideration, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them.

If on request for reconsideration, the delayed payment of the maintenance fee is not accepted, then the $490 maintenance fee and the $700 surcharge set forth in §1.20(i) are subject to refund following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. (Petitioner may request a refund of the maintenance fee and surcharge by writing to the Mail Stop 16, Director of the USPTO, P.O. Box 1450, Alexandria VA 22313-1450). A copy of the last decision rendered should accompany the request for refund).

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

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

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

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JAN 26 2011

OFFICE OF PETITIONS

COOPER & DUNHAM, LLP
30 Rockefeller Plaza
20th Floor
NEW YORK, NY 10112

In re Patent of Mark I Greene et al. :
Patent No. 7,625,558 :
Issue Date: December 1, 2009 :
Application No. 10/100,952 :
Filing Date: March 19, 2002 :
Attorney Docket No. 79818-A/JPW/AHC :

DECISION ON PETITION AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed June 21, 2010, requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand four hundred eighty-five (1,485) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand four hundred eighty-five (1,485) days is **GRANTED to the extent indicated herein**.

The Office will *sua sponte* issue a certificate of correction setting forth a patent term adjustment determination of 1,334 days. Pursuant to 37 C.F.R. § 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Therefore, Patentees are hereby given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to file any request for reconsideration of the patent term adjustment set forth in this decision. Extensions of time will not be granted under 37 C.F.R. § 1.136.

No portion of this decision should be construed as a waiver of the requirement, set forth in 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.

Background

The application issued as a patent on December 1, 2009, with a patent term adjustment of 900 days, which consisted of:

1. A 688-day increase for delay under 37 C.F.R. § 1.703(a)(1),
2. A 67-day increase for delay under 37 C.F.R. § 1.703(a)(3),

3. A 90-day reduction for delay under 37 C.F.R. § 1.704(b),
4. A 1-day reduction for delay under 37 C.F.R. § 1.704(c)(8),
5. A 85-day increase for delay under 37 C.F.R. § 1.703(a)(6),
6. A 186-day increase for delay under 37 C.F.R. § 1.703(b),
7. A 32-day reduction for delay under 37 C.F.R. § 1.704(c)(10), and
8. A 3-day reduction for delay under 37 C.F.R. § 1.704(c)(10).

Patentees did not file a request under 37 C.F.R. § 1.705(d) disputing the Office's determination of the patent term adjustment determination set forth in the patent.

Patentees filed a "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" on April 5, 2010.

The Office issued a decision in response to the request on April 21, 2010. The decision stated the Office would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by 1,265 days unless a request for reconsideration of the decision was filed within the longer of one month or 30 days from the issuance date of the decision.

The Office issued a decision vacating the April 21, 2010 decision on May 18, 2010. The new decision stated the Office would be issuing a certificate of correction indicating the term of the patent is extended or adjusted by 1,353 days unless a request for reconsideration of the decision was filed within the longer of one month or 30 days from the issuance date of the decision.

The instant petition was filed June 21, 2010. The petition includes a certificate of mailing dated June 17, 2010. The petition requests a patent term adjustment of 1,485 days.

The Office issued a certificate of correction on December 21, 2010, setting forth a patent term adjustment determination of 1,353 days.

Discussion

The Period of Delay Under 37 C.F.R. § 1.703(a) ("A Delay")

The petition asserts the period of A Delay, including any days which overlap with the period of delay under 37 C.F.R. § 1.703(b), is 755 days, which is the sum of:

1. 688 days of delay under 37 C.F.R. § 1.703(a)(1),
2. 67 days of delay under 37 C.F.R. § 1.703(a)(3).

The Office issued the patent on December 1, 2009, which was four months and 85 days after May 7, 2009, the date the issue fee was paid. Therefore, an 85-day increase in patent term adjustment for delay under 37 C.F.R. § 1.703(a)(6) is appropriate.

The period of A Delay is 840 days, which is the sum of:

1. 688 days of delay under 37 C.F.R. § 1.703(a)(1),
2. 67 days of delay under 37 C.F.R. § 1.703(a)(3), and
3. 85 days of delay under 37 C.F.R. § 1.703(a)(6).

The Period of Delay Under 37 C.F.R. § 1.703(b) ("B Delay")

The petition asserts the period of B Delay, including any days which overlap with the period of A Delay, is 940 days, which is the number of days beginning March 20, 2005, the day after the date three years after the filing date, and ending October 15, 2007, the day before the date a request for continued examination was filed.

37 C.F.R. § 1.703(b)(4) states the period of B Delay does not include,

> The number of days, if any, in the period 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 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or 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, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

The number of days beginning March 13, 2006, the date a Notice of Appeal was filed, and ending June 15, 2006, the date the Office mailed a non-final Office action, is 95 days.

The number of days beginning May 29, 2007, the date a Notice of Appeal was filed, and ending October 17, 2007, the day before the date a request for continued examination was filed, is 140 days.

The proper period of B Delay is 705 days, which is 940 days reduced by the 235 (95 + 140) days consumed by appellate review.

Overlap Between the Periods of A Delay and B Delay

The petition indicates the period of B Delay overlaps with a total of 85 days of A Delay. Specifically, the petition indicates the period of B Delay overlaps with the entire 67-day period of A delay under 37 C.F.R. § 1.703(a)(3) and with 18 days of the 688-day period of A Delay under 37 C.F.R. § 1.703(a)(6).

The Office agrees the periods of A Delay and B Delay overlap by 85 days.

The Period of Delay Under 37 C.F.R. § 1.704 ("Applicant Delay")

When calculating the patent term adjustment set forth on the patent, the Office determined the total period of Applicant Delay is 126 days.

The petition asserts the proper period of Applicant Delay is 125 days.

If Patentees wished to challenge the Office's determination of the period of Applicant Delay, Patentees could have filed a request under 37 C.F.R. § 1.705(d). Patentees did not file a request

under 37 C.F.R. § 1.705(d). Therefore, any arguments concerning the proper number of days of Applicant Delay are untimely.

The Office recognizes Patentees timely filed a "Request for Recalculation of Patent Term Adjustment in View of *Wyeth*" ("*Wyeth* Request") on April 5, 2010. However, a *Wyeth* Request may not be used to challenge the Office's determination of the total period of Applicant Delay.

The total period of Applicant Delay remains 126 days.

Conclusion

The total period of A Delay is 840 days.

The period of B Delay is 705 days.

The number of days of overlap between the periods of A Delay and B Delay is 85 days.

The total period of Applicant Delay is 126 days.

The patent term adjustment is 1,334 days, which is the sum of 840 days of A Delay and 705 days of B Delay reduced by 85 days of overlap between the periods of A Delay and B Delay and reduced by 126 days of Applicant Delay.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 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 patent is extended or adjusted by **one thousand three hundred thirty-four (1334)** 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.	:	7,625,558 B2
APPLICATION NO.	:	10/100,952
DATED	:	December 1, 2009
INVENTOR(S)	:	Mark I. Greene 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:

The first or sole Notice should read --

Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1334 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

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,334,047
Issue Date: February 19, 2008
Application No. 10/101,145
Filed: March 18, 2002
Attorney Docket No. 112025-0809C1

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION
:

This is a decision on the petition, filed February 17, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to nonprovisional Application No. 09/895,802, filed June 29, 2001, by way of a certificate of correction.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed Mach 18, 2002. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

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

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the prior-filed application. A determination that applicant is entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a certificate of correction.

As authorized, the $1,410.00 surcharge fee, as well as the $100 certificate of correction fee, will be charged to petitioner's Deposit Account.

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

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

Thurman K. Page
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
10/101,145	03/18/2002	2145	1604	112025-0809C1	54	6

CONFIRMATION NO. 7179

24267
CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

CORRECTED FILING RECEIPT

OC000000047004778

Date Mailed: 04/07/2011

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)

Padmadevi Pillay-Esnault, Santa Clara, CA;

Assignment For Published Patent Application

Cisco Technology, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 24267

Domestic Priority data as claimed by applicant

This application is a CON of 09/895,802 06/29/2001 ABN

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: 04/16/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/101,145**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

METHOD AND SYSTEM FOR SELECTIVE LINK STATE ADVERTISEMENT BLOCKING OVER A DATA NETWORK AREA

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).

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)
6,485,489	2002-11-26	10/101,230	2002-03-19	1415-P006001

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

SMALL ENTITY

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

LOSS 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	/EW64327/	Date (YYYY-MM-DD)	2002-02-03
Name	Ellen Wei	Registration Number	64327

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6485489
Issue Date: November 26,2002
Application No. 10101230
Filed: March 19,2002
Attorney Docket No. QCI-72

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

This is a decision on the electronic petition, filed February 3,2012 ,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 3,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6959118
Issue Date: October 25,2005
Application No. 10101238
Filed: March 20,2002
Attorney Docket No. 36719-179163

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

This is a decision on the electronic petition, filed March 8,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 8,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6959118	2005-10-25	10101238	2002-03-20	36719-179163

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

SMALL ENTITY

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

LOSS 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	/Jeffri A. Kaminski/	Date (YYYY-MM-DD)	2011-03-08
Name	Jeffri A. Kaminski	Registration Number	42709

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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

PEARSON & PEARSON
10 GEORGE STREET
LOWELL MA 01852

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Patent No. 6,875,355	:	
Issue Date: April 05, 2005	:	
Application No. 10/101,402	:	DECISION ON PETITION
Filed: March 19, 2002	:	
Attorney Docket No. 32311	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 29, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED.**

This patent expired on April 05, 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 the undersigned at (571)272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

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

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Abbott et al. :
Application No. 10/102,540 : ON APPLICATION FOR
Filed: March 20, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 032026-0581 :
Title: OPTICAL IMAGING OF :
NANOSTRUCTURED SUBSTRATES :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed August 10, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is eight hundred and sixty-five (865) days, not three hundred and eighty-seven (387) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely 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 he 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). 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 after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

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

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 09 2011

OFFICE OF PETITIONS

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

In re Patent No. 7,887,712	:	DECISION ON REQUEST
Boyle, et al.	:	FOR
Issue Date: February 15, 2011	:	RECONSIDERATION OF
Application No. 10/102,702	:	PATENT TERM ADJUSTMENT
Filed: March 22, 2002	:	and
Atty Docket No.07-837	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on April 15, 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 three hundred and thirty-five (335) 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 hundred and twenty-five (225) days is **GRANTED to the extent indicated herein.**

Patentees dispute the reductions to the patent term adjustment of 693 days and 814 days together. Patentees maintain that only a reduction of 693 days is appropriate.

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 November 19, 2005, after applicants failed to respond to a final Office action mailed August 18, 2005. A Notice of Abandonment was mailed March 8, 2006. A petition under 37 CFR 1.137(b) was filed November 16, 2007. A decision granting that petition was mailed January 20, 2008. Pursuant to 37 CFR 1.704(c)(3), a period of reduction to the patent term adjustment of 803 days is warranted with said period beginning on the date of abandonment of the application, November 19, 2005, and ending on the mailing date of the decision reviving the application, January 30, 2008. Further review of the file history reveals that a reduction to the patent term adjustment under 37 CFR 1.704(c)(4) of 192 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, May 9, 2009, and ending on the date a petition to revive the application was filed, November 16, 2007.
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 803 days (281 days of "A" delay + 968 days of "B" delay - 1,024 days of Applicant delay (18 + 82 + 803 + 90 + 31)).**

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 **two hundred and twenty-five (225) 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 : 7,887,712 B2

DATED : Feb. 15, 2011

INVENTOR(S) : Boyle, 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 225 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

WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE AZ 85251

MAILED

NOV 16 2010

OFFICE OF PETITIONS

In re Patent No. 6,619,808
Issue Date: 16 September, 2003
Application No. 10/102,747
Filed: 22 March, 2002
Attorney Docket No. 3854P2467

DECISION ON PETITION

This is a decision on the petition filed on 7 June, 2010, properly treated as a petition under 37 C.F.R. §1.378(b)[1] requesting acceptance of payment of a maintenance fee for the above-referenced patent as having been delayed due to unavoidable delay.

NOTE:

Petitioner is reminded to include in all filings herein complete information with narrative and documentary support.

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

If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision.

No extension of this 2-month time limit can be granted under 37 C.F.R. §1.136(a) or (b).

A petition for reconsideration **must** be accompanied by the petition fee of $400.00 as set forth in 37 C.F.R. §1.17(f).

[1] A grantable petition to accept a delayed maintenance fee payment under 37 C.F.R. §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(l)(1); and
(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The petition for reconsideration **shall** include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

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

A petition to accept the delayed payment of a maintenance fee under 35 USC §41(c) and 37 C.F.R. §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;*
>
> *(2) payment of the appropriate maintenance fee, unless previously submitted; and*
>
> *(3) payment of the surcharge set forth in 37 C.F.R. §1.20(i)(1).*

The instant petition fails to satisfy requirement (1), listed/described above.

BACKGROUND

Patent No. 6,619,808 (the '808 patent) issued on 16 September, 2003. The first maintenance fee could have been paid during the period from 15 September, 2006, through midnight 16 March, 2007, or, with a surcharge, during the period from 17 March, 2007, through midnight 16 September, 2007. Accordingly, the patent expired after midnight 16 September, 2007, for failure to pay timely the first maintenance fee.

The instant petition (with fee) pursuant to 37 C.F.R. §1.378(b) was filed on 7 June, 2010.

STATUTE AND REGULATION

The grant of authority at 35 U.S.C. §41(c)(1) provides that:

> The Director may accept the payment of any maintenance fee required by subsection (b) of this section after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

The regulations 37 C.F.R. §1.378(b)(3) thus set forth 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. (Emphasis supplied.)

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 of candor and duty to disclose.[2]

OPINION

The Director may accept late payment of the maintenance fee under 35 U.S.C. §41(c) and 37 C.F.R. §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., "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 or reinstate a patent as abandoned or expired due to unavoidable delay cannot be granted where a Petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[7]

Petitioner's Contentions as to Unavoidable Delay

Petitioner Jeffrey D. Moy (Reg. No. 39,307 (Petitioner)) sought relief on behalf of patentee Aaron Pelto pursuant to the regulations at 37 C.F.R. §1.378, averring unavoidable delay.

---

[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)(Petitioner obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §41(c)(1).

[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).

As outlined above, Patent No. 6,619,808 (the '808 patent) issued on 16 September, 2003. The first maintenance fee could have been paid during the period from 16 September, 2006, through midnight 16 March, 2007, or, with a surcharge, during the period from 17 March, 2007, through midnight 16 September, 2007. Accordingly, the patent expired after midnight 16 September, 2007, for failure to pay timely the first maintenance fee.

The entirety of Petitioner's statement/showing in support of the petition appears to be that:

***

> The inventor Aaron Pelto has moved several times since the issuance of his patent, U.S. Patent 6,619,808. Because of these moves, correspondence mailed to him has had difficulty in reaching him as forwarding addresses have expired. Further, Mr. Pelto was confused as to whether any maintenance fees were required to be paid. Mr. Pelto initially thought he had a design patent and that no maintenance fees were required to be paid. He recently contacted our law firm, Weiss &Moy, to discuss a new matter and was then informed that his above identified U.S. Patent has become abandoned (sic) for failure to pay the 3.5 year maintenance fee. Upon hearing this, Mr. Pelto instructed our firm to immediately file this petition to revive (sic) the expired patent.

***

The showing/statement, such as it was provided by Petitioner indicates that—rather than unavoidable delay—the patentee Mr. Pelto apparently ignored at least:

- the clear content of the utility patent application filed by him and/or on his behalf; as well as
- the content of the patent document (setting forth the maintenance fee requirements) on issue.

Moreover, Petitioner's showing/statement indicates that the patentee Mr. Pelto made it difficult if not impossible for his Counsel, Petitioner, to contact him for an extended period of time.

Such facts do not suggest diligence—at least a level of diligence as required herein—on the part of those who were supposed to attend to this matter—to wit: the patentee Mr. Pelto.

The provisions of 35 U.S.C. §41(c)(1) do not require an affirmative finding that the delay was avoidable, but only an explanation as to why the Petitioner has failed to carry his or her burden to establish that the delay was unavoidable.[8] The provisions of 35 U.S.C. §133 do not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing.

[8] *See Commissariat A. L'Energie Atomique v. Watson*, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

Petitioner is reminded that it is the patentee's/licensee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.[9]

At bottom, the question is one of diligence.[10]

Because 35 U.S.C. § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 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.[11] 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 C.F.R. §1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the third/last maintenance fee for this patent.[12] There are three periods to be considered during the evaluation of a petition under 37 C.F.R. §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 reinstate the patent; and

(3) The delay in filing a grantable petition pursuant to §1.378(b) to reinstate the patent.[13]

At the outset and as of this writing, the showing is not persuasive with regards to the nature of the delay in reply that originally resulted in expiration or as to the filing of the initial petition (Items 1 and 2), which are the only periods pertinent at this time.

Petitioner must provide documentary foundations in support of a showing of unavoidable delay.

Thus, at this writing the statements presented in/with the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 C.F.R. §1.378(b).

A showing of diligence in matters before the Office is essential to support a finding of unavoidable delay herein.[14] There is no "sliding scale" based upon the priority given to this maintaining this patent in force, or more diligently seeking reinstatement, *vis-a-vis* other matters by Petitioner. The issue is solely whether the maintenance, or reinstatement, of the patent at issue

---

[9] *See Rydeen v. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992); *Ray v. Lehman, supra.*

[10] *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). *See also: Ray v. Lehman, supra.*

[11] *Ray*, 55 F.3d at 609, 34 USPQ2d at 1788.

[12] *Id.*

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

[14] *See Futures Technology, Ltd. v. Quigg*, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988)(applicant's diligent inquiry into the status of the application is required to show unavoidable delay); *Douglas v. Manbeck*, 21 USPQ2d 1697, 1699-1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (even representation by counsel does not relieve the applicant from his obligation to exercise diligence before the USPTO; applicant's lack of diligence extending two and one half years overcame and superseded any omissions by his counsel).

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.

At this writing the record fails to adequately evidence the exercise of due care and diligence observed by prudent and careful persons, in relation to their most important business, which is necessary to establish unavoidable delay.[15]

The record at this writing does not provide a clear showing that reasonable steps were taken to ensure timely payment of the maintenance fee. In fact, the record indicates that no steps were taken by Patentee(s) and/or Assignee to ensure timely payment of the maintenance fee.

The provisions of 37 C.F.R. §1.378(b) preclude acceptance of the delayed payment of the maintenance fee due to unavoidable delay. The regulations at 37 C.F.R. §1.378(b)(3) state 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.

In any future filing, this showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application, and documents regarding the alleged cause of the delay and copies of any documents referred to in Petitioner's statement as to the cause of the unavoidable delay are required. All the causes which contributed to the failure to timely pay the maintenance fee must be presented and supported with appropriate evidence.[16] (In general, a Petitioner should identify the party(ies) responsible for making the payment: A showing must be made (with supporting documents) outlining the efforts made to ensure timely payment of the maintenance fee--including scheduling and calendaring information, appointment of an individual with the authority and responsibility to pay the fee, and detailing of the causes for a failure in that process.)

Thus, as of this writing, the Office is unable to grant the relief sought.

In summary, the showing of record has been considered, but does not rise to the level of unavoidable delay. Rather, the showing of record is of possible a lack of diligence. (*See*: http://www.uspto.gov/web/offices/pac/mpep/documents/2500_2590.htm#sect2590)

---

[15] *Pratt, supra.*

[16] The showing must also enumerate 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. Statements from all persons who contributed to the delay are also required.

CONCLUSION

For the reasons stated above, the delay in this case cannot be regarded as unavoidable within the meaning of 35 U.S.C. §41(c)(1) and 37 C.F.R. §1.378(b).

Accordingly, the petition under 37 C.F.R. §1.378(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[17]) 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

[17] 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 Petitioners 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.

10/102,810

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101129

DATE : November 29, 2010

TO SPE OF : ART UNIT 2443

SUBJECT : Request for Certificate of Correction on Patent No.: 7707287

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: /Tonia L. M. Dollinger/
Tonia L. M. Dollinger **Art Unit** 2443

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

OCT 20 2011

OFFICE OF PETITIONS

In re Application of :
Bruno LANDAIS et al. :
Application No. 10/103,102 : DECISION ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. Q69148 :

This is a decision on the petition, filed August 25, 2011, 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 Notice of Panel Decision from Pre-Appeal Brief Review of February 1, 2011, which set a one (1) month shorten statutory period reply. A five (5) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on August 1, 2011. A Notice of Abandonment was mailed on August 19, 2011.

Petitioner asserts that the Appeal Brief dated August 1, 2011 was timely filed.

A review of the Office record indicates that the Appeal Brief was timely filed on August 1, 2011. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

Telephone inquiries concerning this decision should be directed to Wilson Lee at (571) 272-1824 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 2472 for appropriate action on the Appeal Brief.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6874494
Issue Date: April 5,2005
Application No. 10103155
Filed: March 20,2002
Attorney Docket No. 3616.215US01

:
: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.

UNITED STATES 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.

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of :
Ikehira et al. :
Application No. 10/103,848 : LETTER REGARDING
Filed: March 25, 2002 : PATENT TERM ADJUSTMENT
Docket No. Q69077 :
Title: POLYMERIC LIGHT EMITTING :
SUBSTANCE AND POLYMER LIGHT :
EMITTING DEVICE USING THE SAME :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed April 11, 2011. Applicants request that the determination of patent term adjustment be increased by eight (8) days to eight (8) days from zero (0) 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.[1] In addition, Applicants contend that a period of adjustment for Office delay of 241 days should be accorded,[2] that a period of reduction for Applicant delay of 202 days is not warranted,[3] and that a period of reduction for Applicant delay of 107 days should be accorded.[4]

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**.

[1] Petition, pages 2-3.
[2] Id. at 2.
[3] Id. at 3.
[4] Id.

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, 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[5].

---

[5] 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

To the extent that Applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is **GRANTED to the extent indicated herein**.

The Office has updated the PALM screen to reflect that the amount of applicant Delay is 548 days and the amount of examination delay is 370 days. As such, the Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance remains zero days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On January 12, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. The instant application for patent term adjustment was timely filed[6] on or before payment of the issue fee.

There is one period of examination delay and two periods of applicant delay that are in dispute.

The Office agrees that the reduction of 202 days should be removed, and that an adjustment of 241 days is warranted. On October 1, 2003, the Office mailed a restriction requirement. A response was not received until July 21, 2004, which is three months and 202 days after the mailing of the restriction requirement. It follows that a reduction of 202 days was entered, pursuant to 37 C.F.R. § 1.704(b). With this petition, Applicants have included a postcard receipt which evinces that this response was received in the Office on October 23, 2003.[7] As such, it is clear that no reduction was warranted pursuant to 37 C.F.R. § 1.704(b), and the 202-day reduction has been removed. Conversely, it is noted that the Office mailed a non-final Office action on October 21, 2004, which is four months and 241 days after the receipt of the response to the restriction requirement. It follows that an adjustment of 241 days is warranted pursuant to 37 C.F.R. § 1.703(a)(2), and this adjustment has been entered accordingly.

---

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.

[6] PALM records indicate that the issue fee was paid on April 12, 2011.

[7] A review of the electronic record shows that a copy of this postcard receipt was included with the July 21, 2004 submission.

The Office holds that a 107-day reduction pursuant to 37 C.F.R. § 1.704(c)(10) is not warranted. A notice of allowance was mailed on June 28, 2010, a Request for Continued Examination (RCE) was submitted on September 27, 2010 (the issue fee was not included therewith), and a second notice of allowance was mailed 107 days later on January 12, 2011. Applicants argue this warrants a reduction of 107 days pursuant to 37 C.F.R. § 1.704(c)(10), however no reduction is warranted for the filing of the RCE on September 27, 2010. The calculation of any applicant delay for the filing of the RCE on September 27, 2010 is assessed pursuant to 37 CFR 1.704(b). In lieu of paying the issue fee, Applicants filed an RCE within three months of the mailing of the June 28, 2010 notice of allowance. Accordingly, no reduction for taking in excess of three months to file a response to the notice of allowance is warranted. The Office has not currently determined such action to be applicant delay.

In view thereof, the patent term adjustment as of the mailing of the notice of allowance is zero days: 370 (129 + 241) examination delay minus 548 (90 + 92 + 92 + 91 + 94 + 89) applicant delay.

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).

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 regarding *this decision* should be directed to the undersigned at (571) 272-3225.[8]

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

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

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

Application Number*: 10103848 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10103848

Application Filing Date	03/25/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	129
A Delays	129	PTO Manual Adjustment	443
B Delays	0	Applicant Delay (APPL)	750
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
119	04/27/2011		P028	Adjustment of PTA Calculation by PTO	241		0
118	04/27/2011		P028	Adjustment of PTA Calculation by PTO	202		0
108	01/12/2011		MN/=.	Mail Notice of Allowance			0
107	01/10/2011		IREV	Issue Revision Completed			0
106	10/27/2010		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0
105	10/27/2010		DVER	Document Verification			0
104	10/25/2010		N/=.	Notice of Allowance Data Verification Completed			0
103	10/25/2010		CNTA	Allowability Notice			0
95	09/28/2010		ABN9	Disposal for a RCE / CPA / R129			0
99	09/27/2010		IDSC	Information Disclosure Statement considered			0
98	09/27/2010		RCAP	Reference capture on IDS			0
97	09/27/2010		M844	Information Disclosure Statement (IDS) Filed			0
96	09/27/2010		RCEX	Request for Continued Examination (RCE)			0
94	09/27/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
93	09/27/2010		BRCE	Workflow - Request for RCE - Begin			0
92	08/20/2010		FIDC	Finished Initial Data Capture			0
91	07/10/2010		R1021	Receipt into Pubs			0
90	06/29/2010		EIDC	Export to Initial Data Capture			0
89	06/28/2010		ELC_RVW	Electronic Review			0
88	06/28/2010		EML_NTF	Email Notification			0
87	06/28/2010		EML_NTR	Email Notification			0
86	06/28/2010		MEX.A	Mail Examiner's Amendment			0
85	06/28/2010		MN/=.	Mail Notice of Allowance			0
84	06/22/2010		IREV	Issue Revision Completed			0
83	06/22/2010		DVER	Document Verification			0
82	06/21/2010		N/=.	Notice of Allowance Data Verification Completed			0
81	06/21/2010		EX.A	Examiner's Amendment Communication			0
80	06/21/2010		CNTA	Allowability Notice			0
76	04/08/2010		FWDX	Date Forwarded to Examiner			0
73	03/30/2010		DOCK	Case Docketed to Examiner in GAU			0
75	03/15/2010	12/16/2009	A...	Response after Non-Final Action		89	70
74	03/15/2010		XT/G	Request for Extension of Time - Granted			0
72	11/03/2009		C.ADB	Correspondence Address Change			0
71	10/30/2009		C.ADB	Correspondence Address Change			0
70	09/16/2009		MCTNF	Mail Non-Final Rejection			0
69	09/14/2009		CTNF	Non-Final Rejection			0
68	07/07/2009		FWDX	Date Forwarded to Examiner			0
66	07/07/2009		FWDX	Date Forwarded to Examiner			0
64	07/07/2009		ABN9	Disposal for a RCE / CPA / R129			0
67	07/01/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
65	07/01/2009	12/01/2008	RCEX	Request for Continued Examination (RCE)			59
63	07/01/2009		XT/G	Request for Extension of Time - Granted			0
62	07/01/2009		BRCE	Workflow - Request for RCE - Begin			0
61	12/29/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
60	12/23/2008		CTAV	Advisory Action (PTOL-303)			0
58	12/02/2008		FWDX	Date Forwarded to Examiner			0
59	12/01/2008	08/29/2008	N/AP	Notice of Appeal Filed		94	54
57	12/01/2008		A.NE	Amendment after Final Rejection			0
55	12/01/2008		XT/G	Request for Extension of Time - Granted			0
54	05/29/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
53	05/27/2008		CTFR	Final Rejection			0
52	03/22/2008		FWDX	Date Forwarded to Examiner			0
51	02/21/2008	11/22/2007	A...	Response after Non-Final Action		91	48
50	02/21/2008		XT/G	Request for Extension of Time - Granted			0
49	10/04/2007		DOCK	Case Docketed to Examiner in GAU			0
48	08/22/2007		MCTNF	Mail Non-Final Rejection			0
47	08/20/2007		CTNF	Non-Final Rejection			0

46	06/13/2007		FWDX	Date Forwarded to Examiner			0
45	06/04/2007	03/04/2007	A...	Response after Non-Final Action		92	43
44	06/04/2007		XT/G	Request for Extension of Time - Granted			0
43	12/04/2006		MCTNF	Mail Non-Final Rejection			0
42	11/27/2006		CTNF	Non-Final Rejection			0
41	09/28/2006		FWDX	Date Forwarded to Examiner			0
40	09/22/2006		A...	Response after Non-Final Action			0
39	08/22/2006		MCPA-AMD	Mail Notice of Informal or Non-Responsive RCE Amendment			0
38	08/17/2006		CPA-AMD	RCE Amendment Informal or Non-Responsive			0
37	08/17/2006		FWDX	Date Forwarded to Examiner			0
35	08/17/2006		FWDX	Date Forwarded to Examiner			0
33	08/17/2006		ABN9	Disposal for a RCE / CPA / R129			0
36	08/11/2006		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
34	08/11/2006	01/12/2006	RCEX	Request for Continued Examination (RCE)			30
32	08/11/2006		XT/G	Request for Extension of Time - Granted			0
31	08/11/2006		BRCE	Workflow - Request for RCE - Begin			0
30	01/12/2006	10/12/2005	N/AP	Notice of Appeal Filed		92	28
29	01/12/2006		XT/G	Request for Extension of Time - Granted			0
28	07/12/2005		MCTFR	Mail Final Rejection (PTOL - 326)			0
27	07/11/2005		CTFR	Final Rejection			0
26	04/28/2005		FWDX	Date Forwarded to Examiner			0
25	04/21/2005	01/21/2005	A...	Response after Non-Final Action		90	23
24	04/21/2005		XT/G	Request for Extension of Time - Granted			0
23	10/21/2004		MCTNF	Mail Non-Final Rejection			0
22	10/18/2004		CTNF	Non-Final Rejection			0
21	08/04/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
20	08/04/2004		FWDX	Date Forwarded to Examiner			0
19	07/21/2004	01/01/2004	ELC.	Response to Election / Restriction Filed		202	15
16	07/21/2004		WAMD	Workflow incoming amendment IFW			0
15	10/01/2003	05/25/2003	MCTRS	Mail Restriction Requirement	129		0.5
14	09/30/2003		CTRS	Restriction/Election Requirement			0
13	05/20/2003		DOCK	Case Docketed to Examiner in GAU			0
12.7	10/30/2002		M844	Information Disclosure Statement (IDS) Filed			0
12	10/30/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
11.7	08/29/2002		M844	Information Disclosure Statement (IDS) Filed			0
11	08/29/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
9	08/27/2002		DOCK	Case Docketed to Examiner in GAU			0
8	07/19/2002		OIPE	Application Dispatched from OIPE			0
7	07/18/2002		COMP	Application Is Now Complete			0
18	06/25/2002		RCAP	Reference capture on IDS			0
17.7	06/25/2002		M844	Information Disclosure Statement (IDS) Filed			0
17	06/25/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
5	06/25/2002		ADDFLFEE	Additional Application Filing Fees			0
4	06/25/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
3	04/25/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
2	04/05/2002		SCAN	IFW Scan & PACR Auto Security Review			0
1	03/25/2002		IEXX	Initial Exam Team nn			0
0.5	03/25/2002		EFILE	Filing date			0

Export to: Excel

UNITED STATES 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 Chung
211-35 23rd. Ave. #1F
Bayside NY 11360

MAILED

OCT 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael Chung	:	
Application No. 10/104,496	:	DECISION ON PETITION
Filed: March 22, 2002	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 28, 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 October 28, 2009, 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 November 29, 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 $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 3622 for appropriate action by the Examiner in the normal course of business on the reply received April 28, 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

In re Patent No. 7092735
Issue Date: August 15,2006
Application No. 10104934
Filed: March 22,2002
Attorney Docket No. OSAN-01012US0

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

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

The petition is **GRANTED**.

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

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

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7092735	2006-08-15	10104934	2002-03-22	OSAN-01012US1

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

SMALL ENTITY

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

LOSS 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	/Justas Geringson/	Date (YYYY-MM-DD)	2010-08-25
Name	Justas Geringson	Registration Number	57033

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

MAILED

JAN 28 2011

OFFICE OF PETITIONS

In re Application of
Joseph P. Baumgartner et al
Application No. 10/105,082
Filed: March 21, 2002
Attorney Docket No. UV-237

ON PETITION

This is a decision on the petition, filed January 27, 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 January 12, 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 2424 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Application of :
Joseph P. Baumgartner et al :
Application No. 10/105,082 : DECISION GRANTING PETITION
Filed: March 21, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 003597-0237-101 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, July 14, 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 on June 16, 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 2424 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of :
Harpal S. Sandhu, et al. :
Application No. 10/105,084 : ON PETITION
Filed: March 22, 2002 :
Attorney Docket No. 033018-00004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 21, 2011, to revive the above-identified application.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed March 30, 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 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 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) 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 3694 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

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

MARTIN & FERRARO, LLP
1557 LAKE O'PINES STREET, NE
HARTVILLE OH 44632

MAILED

JUN 10 2011

OFFICE OF PETITIONS

In re Application :
Gary Karlin Michelson :
Application No. 10/105,773 : DECISION ON APPLICATION
Filed: March 25, 2002 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 101.0042-06000 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed March 3, 2011. Applicant requests that the determination of patent term adjustment be corrected from 398 days to 522 days.

The application for patent term adjustment is **GRANTED** to the extent indicated herein.

On February 9, 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 398 days. The instant application for patent term adjustment was timely filed[1] on or before payment of the issue fee.

Applicants argue that the Patent Office erroneously assigned a receipt date of July 7, 2003 to the response to a non-Final Office Action mailed November 18, 2002. Applicants argue that instead the receipt date is February 24, 2003 as evidenced by a date stamped return receipt postcard. While a review of the application file does not reveal that the response to the non-Final Office Action mailed November 18, 2002 was filed February 24, 2003, the postcard receipt with a PTO date stamp is prima facie evidence of receipt of the response on February 24, 2003. Thus, the response was filed February 24, 2003, not July 7, 2003.

Accordingly, a delay of 6 days on the part of Applicants should be calculated for the period from February 18, 2003 to February 24, 2003, pursuant to 37 CFR 1.704(b). Thus 139 days will be removed and 6 days will be entered. As well, for the period June 24, 2003 to September 17, 2003, when the Final Office Action was mailed, a period of 85 days has been entered for Examination delay pursuant to 37 CFR 1.702(a)(2).

[1] PALM records indicate that the issue fee was paid on March 3, 2011.

Additionally, applicants argue that after the response filed February 24, 2003, Applicant then filed an Information Disclosure Statement ("IDS") on March 4, 2003. Accordingly, the delay attributable to Applicant for this period is 8 days, which is the number of days accrued from the day after the submission of a reply (i.e., February 25, 2003) to the date of the submission of the IDS.

Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

In this instance, the filing of the Information Disclosure Statement on March 4, 2003, after the mailing of a response on February 24, 2003 is considered a failure to engage under 1.704(c)(8). The record does not support a conclusion that the IDS was expressly requested by the examiner and neither did the IDS include a proper 1.704(d) statement.

Applicants argue that "another basis for patent term extension under 37 C.F.R. § 1.702 is the failure of the Office to respond to an appeal taken under 35 U,S,C. § 134 not later than four months after the date on which the appeal was taken. (37 C.F.R. § 1,702(a)(2)). According to 37 C.F.R. § 1.703(a), the period of adjustment under 37 C.F.R. § 1.702(a) is the number of days in the period beginning on the day after the date that is four months after the date an appeal brief in compliance with 37 C.F.R. § 1.192 was filed and ending on the date of mailing of any of an examiner's answer under 37 C.F.R. § 1.193, an action under 35 U.S.C. § 132, or a notice of allowance under 35 U.S.C. § 151, whichever occurs first, (37 C.F.R. § 1.703(a)(4)).

While the Patent Office has calculated four hundred sixty-eight (468) days of delay for the failure of the Office to respond to an appeal taken under 35 U.S.C. § 134 not later than four months after the date on which the appeal was taken, the Office used the wrong date for the calculation. As argued by the applicant, the delay should be calculated from September 9, 2009, not June 29, 2009, to the mailing of the Notice of Allowance on February 9, 2011. As such, the period of delay should be 376 days and not 468 days. Thus 468 days is being removed and 376 days is being entered for the delay pursuant to 37 C.F.R. § 1.703(a)(4).

Thus the patent term adjustment at the time the Notice of Allowance was mailed was 516 days (85 + 338 + 5 + 376 "A delay" days - 8 + 6+ 1+ 91 + 92 + 90 Applicant delay days), not 522 days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is FIVE HUNDRED SIXTEEN **(516)** days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e).

No additional fees are required.

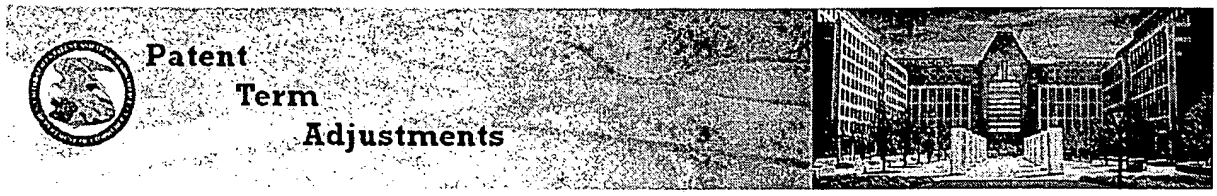
Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the 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



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

Application Number*: 10105773 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10105773

Application Filing Date	03/25/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	811
A Delays	811	PTO Manual Adjustment	118
B Delays	0	Applicant Delay (APPL)	413
C Delays	0	Total PTA (days)	516

* - 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	06/09/2011		P028	Adjustment of PTA Calculation by PTO	85		0	
134	06/09/2011		P028	Adjustment of PTA Calculation by PTO	376		0	
133	06/09/2011		P028	Adjustment of PTA Calculation by PTO		468	0	
132	06/09/2011		P028	Adjustment of PTA Calculation by PTO		8	0	
131	06/09/2011		P028	Adjustment of PTA Calculation by PTO		6	0	
130	06/09/2011		P028	Adjustment of PTA Calculation by PTO	139		0	
122	02/09/2011	10/29/2009	MN/=.	Mail Notice of Allowance	468		111	
119	01/24/2011		IREV	Issue Revision Completed			0	
118	01/24/2011		DVER	Document Verification			0	
117	01/24/2011		N/=.	Notice of Allowance Data Verification Completed			0	
115	01/18/2011		EX.A	Examiner's Amendment Communication			0	
114	01/18/2011		CNTA	Allowability Notice			0	
116	01/12/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0	
112	10/19/2010		FWDX	Date Forwarded to Examiner			0	
110	10/13/2010		APBR	Appeal Brief Review Complete			0	
109	05/25/2010		INHN	Not Inherited			0	
108	05/25/2010		DOCK	Case Docketed to Examiner in GAU			0	
107	05/21/2010		MCTAV	Mail Advisory Action (PTOL - 303)			0	
106	05/20/2010		CTAV	Advisory Action (PTOL-303)			0	
105	05/20/2010		INHY	case Inherited			0	
104	05/20/2010		DOCK	Case Docketed to Examiner in GAU			0	
103	04/30/2010		FWDX	Date Forwarded to Examiner			0	
102	09/29/2009		AP/A	Amendment/Argument after Notice of Appeal			0	
111	06/29/2009		AP.B	Appeal Brief Filed			0	
101	04/29/2009		N/AP	Notice of Appeal Filed			0	
100	01/29/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0	
99	01/28/2009		CTFR	Final Rejection			0	
98	11/25/2008		FWDX	Date Forwarded to Examiner			0	
97	10/21/2008		A...	Response after Non-Final Action			0	
96	08/05/2008	07/31/2008	MCTNF	Mail Non-Final Rejection	5		90	
95	08/04/2008		CTNF	Non-Final Rejection			0	
91	04/11/2008		FWDX	Date Forwarded to Examiner			0	
94	03/31/2008		IDSC	Information Disclosure Statement considered			0	
93	03/31/2008		RCAP	Reference capture on IDS			0	
92	03/31/2008	03/31/2008	M844	Information Disclosure Statement (IDS) Filed			90	
90	03/31/2008		A...	Response after Non-Final Action			0	
89	03/31/2008		WIDS	Information Disclosure Statement (IDS) Filed			0	
87	12/31/2007		MCTNF	Mail Non-Final Rejection			0	
86	12/26/2007		CTNF	Non-Final Rejection			0	
83	11/06/2007		IRFND	Request for Refund			0	
88	10/30/2007		M844	Information Disclosure Statement (IDS) Filed			0	
85	10/30/2007		IDSC	Information Disclosure Statement considered			0	
82	10/30/2007		WIDS	Information Disclosure Statement (IDS) Filed			0	
81	10/09/2007		FWDX	Date Forwarded to Examiner			0	
79	10/09/2007		FWDX	Date Forwarded to Examiner			0	
77	10/09/2007		ABN9	Disposal for a RCE / CPA / R129			0	
76	10/09/2007		DOCK	Case Docketed to Examiner in GAU			0	
84	09/20/2007		IDSC	Information Disclosure Statement considered			0	
80	09/20/2007		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0	
78	09/20/2007		RCEX	Request for Continued Examination (RCE)			0	
75	09/20/2007		RCAP	Reference capture on IDS			0	
74	09/20/2007		M844	Information Disclosure Statement (IDS) Filed			0	
73	09/20/2007		WIDS	Information Disclosure Statement (IDS) Filed			0	

72	09/20/2007		BRCE	Workflow - Request for RCE - Begin			0
71	08/24/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
70	08/20/2007		CTFR	Final Rejection			0
67	06/05/2007		DOCK	Case Docketed to Examiner in GAU			0
66	05/21/2007		FWDX	Date Forwarded to Examiner			0
65	05/11/2007		A...	Response after Non-Final Action			0
64	05/07/2007		MCTNF	Mail Non-Final Rejection			0
63	04/30/2007		CTNF	Non-Final Rejection			0
62	02/08/2007		FWDX	Date Forwarded to Examiner			0
61	01/12/2007	10/14/2006	A...	Response after Non-Final Action		90	59
60	01/12/2007		XT/G	Request for Extension of Time - Granted			0
59	07/14/2006		MCTNF	Mail Non-Final Rejection			0
58	07/10/2006		CTNF	Non-Final Rejection			0
56	06/15/2006		FWDX	Date Forwarded to Examiner			0
54	06/15/2006		FWDX	Date Forwarded to Examiner			0
52	06/15/2006		ABN9	Disposal for a RCE / CPA / R129			0
57	06/08/2006		IDSC	Information Disclosure Statement considered			0
55	06/08/2006		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
53	06/08/2006	03/08/2006	RCEX	Request for Continued Examination (RCE)		92	48
51	06/08/2006		RCAP	Reference capture on IDS			0
50.7	06/08/2006		M844	Information Disclosure Statement (IDS) Filed			0
50	06/08/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
49	06/08/2006		BRCE	Workflow - Request for RCE - Begin			0
48	12/08/2005		MCTFR	Mail Final Rejection (PTOL - 326)			0
47	12/07/2005		CTFR	Final Rejection			0
46	09/30/2005		FWDX	Date Forwarded to Examiner			0
43	09/27/2005		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
45	09/21/2005	06/22/2005	A...	Response after Non-Final Action		91	41
44	09/21/2005		XT/G	Request for Extension of Time - Granted			0
41	03/22/2005	04/18/2004	MCTNF	Mail Non-Final Rejection	338		21
40	03/20/2005		CTNF	Non-Final Rejection			0
38	01/13/2005		FWDX	Date Forwarded to Examiner			0
37	01/13/2005		EOSP	to Close the A/R Record and Reset the Status for Expired Suspensions.			0
69	01/12/2005		IDSC	Information Disclosure Statement considered			0
68	01/12/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
39	11/16/2004		LET.	Miscellaneous Incoming Letter			0
33	11/16/2004		WAMD	Workflow incoming amendment IFW			0
32	09/24/2004		LET.	Miscellaneous Incoming Letter			0
26	03/19/2004		ML.SP	Mail Letter of Suspension			0
25	03/19/2004		L.SP	Suspension - Examiner Initiated			0
31	02/17/2004		A.NQ	Amendment Crossed in Mail			0
24	01/07/2004		FWDX	Date Forwarded to Examiner			0
22	01/07/2004		FWDX	Date Forwarded to Examiner			0
20	01/07/2004		ABN9	Disposal for a RCE / CPA / R129			0
23	12/18/2003		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
21	12/18/2003	12/17/2003	RCEX	Request for Continued Examination (RCE)		1	17
19	12/18/2003		XT/G	Request for Extension of Time - Granted			0
18	12/18/2003		BRCE	Workflow - Request for RCE - Begin			0
17	09/17/2003		MCTFR	Mail Final Rejection (PTOL - 326)			0
16	09/16/2003		CTFR	Final Rejection			0
15	07/09/2003		FWDX	Date Forwarded to Examiner			0
14	07/07/2003	02/18/2003	A...	Response after Non-Final Action		139	12
13.7	03/04/2003		M844	Information Disclosure Statement (IDS) Filed			0
13	03/04/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
12	11/18/2002		MCTNF	Mail Non-Final Rejection			0
11	11/18/2002		CTNF	Non-Final Rejection			0
10	05/13/2002		A.PE	Preliminary Amendment			0
6	05/13/2002		DOCK	Case Docketed to Examiner in GAU			0
9.7	05/03/2002		M844	Information Disclosure Statement (IDS) Filed			0
9	05/03/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
5	04/22/2002		OIPE	Application Dispatched from OIPE			0
4	04/16/2002		COMP	Application Is Now Complete			0
2	04/09/2002		SCAN	IFW Scan & PACR Auto Security Review			0
34	03/25/2002		RCAP	Reference capture on IDS			0
8.7	03/25/2002		M844	Information Disclosure Statement (IDS) Filed			0
8	03/25/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
7	03/25/2002		A.PE	Preliminary Amendment			0
1	03/25/2002		IEXX	Initial Exam Team nn			0
0.5	03/25/2002		EFILE	Filing date			0

Export to: Excel

UNITED STATES 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 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,318,829 :
Issue Date: 01/15/2008 :
Application Number: 10/105,978 : NOTICE
Filing or 371(c) Date: 03/25/2002 :
Attorney Docket Number: 20043.0003USD2 :

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
100 PARKWOOD PLACE
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
www.uspto.gov

Paper No.

Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas TX 75219

MAILED

NOV 19 2010

OFFICE OF PETITIONS

In re Application of :
Blankenbeckler et al. :
Application No. 10/106,475 :
Patent No. 7,016,294 : DECISION ON PETITION
Filed: March 25, 2002 : UNDER 37 C.F.R. § 1.378(C)
Issue Date: March 21, 2006 :
Attorney Docket Number: M-12015 :
US :
Title: INNER REGION IDENTIFIER :
FOR OPTICAL DISK :

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on October 18, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

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

The patent issued on March 21, 2006. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on March 21, 2010, with no payment received. Accordingly, the patent expired on March 21, 2010 at midnight.

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

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;

(3) A statement that the delay was unintentional from a proper party in interest, and;
(4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

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

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

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

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay[1]. In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee pursuant to 37 C.F.R. § 1.378(c) was intentional, Petitioner must notify the Office.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[2] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Jonathan W. Hallman
18100 Von Karman Ave., Suite 750
Irvine, CA 92612

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,024,370	:	
Issue Date: April 4, 2006	:	
Application No. 10/106,841	:	ON PETITION
Filed: March 26, 2002	:	
Attorney Docket No. PO873.70001US00	:	

This is a decision on the petition filed July 29, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Randal L. Wimberly
PO Box 66
Elizabethtown, IL 62931

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent of Wimberly :
Patent No. 6,744,187 :
Issue Date: June 1, 2004 : Letter
Application No. 10/106,922 :
Filing Date: March 25, 2002 :
For: Lamp Assembly With Internal Reflector :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed November 26, 2010.

The deficiency payment of $515 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

OPAP IAP25 NOV 26 2010 PATENT & TRADEMARK OFFICE

BOX-M

2010 NOV 29 PM 4:20

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
DEC 03 2010
OFFICE OF PETITIONS

In re application of		:	
RANDAL L. WIMBERLY		:	
Serial No.:	10/106,922	:	Group Art Unit: 2879
Letters Patent No.:	6,744,187	:	
Filed:	March 25, 2002	:	Examiner: Harper, Holly R.
For:	LAMP ASSEMBLY WITH INTERNAL REFLECTOR	:	12/01/2010 DALLEN 00000038 6744187 01 FC:1599 515.00 OP

PAYMENT OF DEFICIENCIES IN FOURTH YEAR MAINTENANCE FEE

Commissioner for Patents
Attn: Maintenance Fees
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant claimed small entity status in good faith at the time of filing the above-captioned application, but was not entitled to such status at the time certain fees were paid. The fourth year maintenance fee was paid in good faith but erroneously as small entity. Therefore, please find enclosed the $515.00 deficiency in the fourth year maintenance fee (amount due $980.00) paid on November 28, 2007.

Respectfully submitted,

KING & SCHICKLI, PLLC

Adjustment date: 03/22/2011 CKHLOK
12/01/2010 DALLEN 00000038 6744187
01 FC:1599 -515.00 OP

Randal L. Wimberly

03/22/2011 CKHLOK 00000013 6744187
01 FC:1559 515.00 OP

UNITED STATES 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
JUL 19 2011
OFFICE OF PETITIONS

FISH & RICHARDSON PC
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,810,024	: DECISION ON
Oliver Goodman	: REQUEST FOR RECONSIDERATION
Application No. 10/107,102	: of PATENT TERM ADJUSTMENT
Issue Date: October 5, 2010	: and
Filed: March 25, 2002	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 07844-0525001	: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d)", filed December 3, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from eight hundred eighty-five (885) days to one thousand one hundred two (1102) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

On October 5, 2010, the instant application matured into U.S. Patent No. 7,810,024 with a patent term adjustment of 885 days. The Office determined a patent term adjustment of 885 days based upon 576 days of Office delay pursuant to 37 CFR 1.703(a)(1), and 374 days pursuant to CFR 1.703(b), reduced by 61 days of Applicant delay pursuant to 37 CFR 1.704(b).

Patentee is correct that the proper amount of days over 36 months from the filing date of the application until the issue date was not included in the "B" delay period. The over three year period began on March 26, 2005 and ended on September 15, 2009 (the day before applicant filed an RCE), and is 1635 days. See 35 U.S.C. 154(b)(1)(B)(i).

However, the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either (1) a Board decision, (2) the examiner reopening prosecution and issuing another Office action, or (3)

the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination).

Here, there were two separate instances of appellate review. In the first instance, applicant filed a Notice of Appeal on September 2, 2005. The Office re-opened prosecution by mailing an Office action on November 2, 2005. Therefore, the period consumed by appellate review in this instance is 62 days. Applicant's argument that no appellate review occurred during this period has been considered, but is not persuasive.

In the second instance, the period consumed by appellate review is 1044 days, beginning on October 2, 2006, the date of filing of a second notice of appeal, and ending on August 10, 2009, the date of the mailing of the Board decision. Thus, B delay is 529 (1635 – 62 – 1044) days.

In view thereof, the correct number of days of patent term adjustment is **one thousand forty (1040)** days (576 days of "A" delay and 529 days of "B" delay, reduced by 65 days of Applicant delay).

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

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 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 **one thousand forty (1040) days.**

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

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,810,024 B2

DATED : **October 5, 2010**

INVENTOR(S) : Goodman

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 885 days.

Delete the phrase "by 885 days" and insert – by 1040 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)
6644152	2003-11-11	10107121	2002-03-28	

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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/STEVE M CLEMMONS/	Date (YYYY-MM-DD)	2012-01-11
Name	Steve M Clemmons	Registration Number	55078

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6644152
Issue Date: November 11,2003
Application No. 10107121
Filed: March 28,2002
Attorney Docket No. SSX-115-A

: 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.

UNITED STATES 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 29 2010

OFFICE OF PETITIONS

VICTORIA DONNELLY
PO BOX 24001
HAZELDEAN RPO
KANATA ON K2M 2C3 CA CANADA

In re Patent No. 7,184,434	:	
Issue Date: February 27, 2007	:	
Application No. 10/107,333	:	NOTICE
Filed: March 28, 2002	:	
Attorney Docket No. TR-037-US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 17, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

This file is being forwarded to Files Repository.

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

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,844,117 B2
Patented: January 18, 2005

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

Takaei Sasaki of Saitama-Ken, JP
Noriyuki Harashima of Saitama-Ken, JP
Satoshi Aoyama of Hyogo-ken, JP
Shouichi Sakamoto of Hyogo-ken, JP

/Mark F. Huff/

Mark F. Huff
Supervisory Patent Examiner
Art Unit 1721
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

FISH AND RICHARDSON, PC
CITIGROUP CENTER
52ND FLOOR
143 EAST 53RD CENTER
NEW YORK, NY 10022-4411

MAILED
MAR 25 2011
OFFICE OF PETITIONS

Applicant: Tamatani, et al.	:	On PETITION
Patent No.	:	Under 37 CFR 1.183
7,045,615	:	and 37 CFR 1.705(d)
Application No. 10/107,828	:	REQUEST FOR RECONSIDERATION
Filed: March 26, 2002	:	OF PATENT TERM ADJUSTMENT
Attorney Docket No.:14539-004003		

This is a decision on the petition filed on September 17,2010, which is denoted as a Petition in Response to Decision on Petition Under 37 CFR 1.183 and Application For Patent Term Adjustment Under 37 CFR 1.705(d), requesting reconsideration of the dismissal of the Application For Patent Term Adjustment under 37 CFR 1.705(d) and 37 CFR 1.183. The petition requests that patent term adjustment for the above-identified patent be changed to 910 days

The petition to change the patent term adjustment for the above-identified patent to 910 days is **DENIED**.

BACKGROUND

On May 16, 2006, the above-identified application matured into U.S. Patent No. 7,045,615, with a revised patent term adjustment of 499 days. A first request for reconsideration under 37 CFR 1.705(d) of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. The Office granted that relief requested and the total patent term adjustment was established at 619 days.

Prior to January of 2010, the United States Patent and Trademark Office (USPTO) had taken the position that periods of delay overlap under 35 U.S.C. § 154(b)(2)(A) (provides that "[t]o the extent that periods of delay attributable to grounds specified in [35 U.S.C. § 154(b)(1)] overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed") covered situations in which a delay by the USPTO contributes to multiple bases for adjustment. *See Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 *Fed. Reg.* 34283 (June 21, 2004). On January 7, 2010, the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) held that the USPTO's interpretation of 35 U.S.C. § 154(b)(2)(A) was too strict, and that periods of delay overlap under 35 U.S. 35 U.S.C. § 154(b)(2)(A) only if the periods which measure the amount of adjustment under 35 U.S.C. § 154(b)(1) occur on the same calendar day. *See Wyeth v. Kappos*, 591 F.3d 1364 (Fed. Cir. 2010). On February 1, 2010, the USPTO published guidelines pertaining to requests for recalculation of patent term adjustment in view of the Federal Circuit's decision in *Wyeth*. *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 the Overlapping Delay Provision of 35 USC 154(b)(2)(A)*, 75 *Fed. Reg.* 5043 (Feb. 1, 2010).

On January 22, 2009 (2 and ½ years from grant of the patent) Patentee petitioned under 37 CFR 1.183 to waive the requirement of 37 CFR 1.705(d) and file a second petition under 37 CFR 1.705(d) to consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee referenced the recent Federal Circuit in *Wyeth*, as the basis for the petition. On July 22, 2010, the Office dismissed the petition as not being eligible under 1.183 as being untimely filed. Patentee is now seeking review of the petition dismissal because patentee asserts that it is within the discretion of the Director to waive the rules under 37 CFR 1.183 as the *Wyeth* decision constitutes an "extraordinary situation" that constitutes grant of the petition.

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE REQUIREMENT OF 37 CFR 1.705(d)

The USPTO developed its *Wyeth* guidelines in view of the statutory scheme of patent term adjustment as outlined in 35 U.S.C. § 154. 35 U.S.C. § 154(b)(4)(A) provides the exclusive remedy for patentee dissatisfied with a determination made by the Director by filing a civil action in the United States District Court for the District of Columbia within 180 days of the grant of the patent. Setting this 180-day period for seeking court review of the patent term adjustment determination, 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 patent term adjustment issues be resolved shortly after the patent issues. The USPTO does not consider it likely that Congress created a scheme under which the time period for a dissatisfied patentee to seek initial review of a patent term adjustment determination extends beyond the time period provided to seek judicial review of the patent term adjustment determination. Thus the USPTO believes that the 180-day period in 35 U.S.C. § 154(b)(4)(A) represents the outer limit on the USPTO's ability to conclude its patent term adjustment determinations.

Patentee would not qualify for reconsideration in light of the conditions outlined in the notice. Patentee's request under 37 CFR 1.705(d) and 37 CFR 1.183 was filed approximately 2 ½ years after the issue date of the patent. Patentee's initial request was filed within two months and relief granted under 37 CFR 1.705(d). Patentee, however, did not raise the issue that is now the subject of this petition until more than 2 ½ years after the patent was granted. Accordingly, the current request is untimely.

Moreover, assuming *arguendo* that the USPTO is not bound by the 180-day period enumerated in 35 U.S.C. § 154(b)(4)(A), the instant request would is still not an "extraordinary situation" within the meaning of 37 CFR 1.183. The law is established that a judicial interpretation of a statute, even an interpretation that represents a change in the law, does not constitute the kind of extraordinary circumstance that would warrant other relief such as equitable tolling or a petition under 37 CFR 1.183. *See Catawaba Indian Tribe of S.C. v. United States*, 982

F. 2d 1564 (Fed. Cir); *Venture Coal Sales Co. v. United States*, 370 F. 3d 1102, 1104-05 (Fed. Cir 2004). In *Catawba,* the plaintiff argued that its 1990 action under a 1962 "Termination Act" was not time barred because its cause of action did not accrue until a 1986 decision that construed the Termination Act. The court, disagreed, stating that the statute itself, not the Supreme Court's interpretation of the statute, was the point at which the plaintiff's claim accrued and the limitation period began.
The court stated that:

> While the [Supreme Court's] pronouncement in 1986 might be relevant to fixing the time when the Tribe *subjectively* first knew what the Act meant, it is fundamental jurisprudence that the Act's objective meaning and effect were fixed when the Act was adopted. Any later judicial pronouncements simply explain, but do not create, the operative effect.

Id. At 1570 (emphasis in original).

The court also found that the intervening Supreme Court case was insufficient to equitably toll the statute of limitations:

> "A traditional ground for equitable tolling of a statute of limitations is based upon the avoidance of penalizing a plaintiff simply because under the circumstances plaintiff did not and could not have known the facts upon which the claim is based...But in the case before us, all the relevant facts were known. It was the meaning of the law that was misunderstood."

Id. at 1572 (emphasis in original).

The same result is appropriate under the present facts. All relevant facts were known to patentee and therefore patentee's cause of action arose within two months of the patent grant under 37 CFR 1.705(d). Patentee having availed himself/herself of such remedy under 37 CFR 1.705(d) and being granted relief requested by such remedy now seeks a second window to address issues that were not raised in the original request under 37 CFR 1.183 and 1.705(d) but were known at the time of the original grant of the patent.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the petition to change the patent term adjustment for the above-identified patent to 910 days is **DENIED**.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

This decision may be viewed as a final agency action. See MPEP 1001.02(b).

Telephone inquiries specific to this matter should be directed to Kery A. Fries Senior Legal Advisor, Office of Patent Legal Administration, Office of Associate Commissioner for Patent Examination Policy at 571-271-7757, or Maria Nuzzolillo, Senior Legal Advisor, Office of Patent Legal Administration, Office of Associate Commissioner for Patent Examination Policy at (571) 271-8150.

Robert W. Bahr
Acting Associate Commissioner
For Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/107,890	03/27/2002	James J. Cordingley	351120US25	8506

22850 7590 02/22/2012

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
PERT, EVAN T	

ART UNIT	PAPER NUMBER
2826	

NOTIFICATION DATE	DELIVERY MODE
02/22/2012	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):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.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

Charles Gholz
Oblon, Spivak, McClellan, Maier & Neustadt, L.L.P.
1940 Duke Street
Alexandria, VA 22314

In re Application of
James Cordingley, et al.
Appl. No. 10/107,890
Filed: March 27, 2002
For: Methods and Systems for Thermal-Based Laser Processing A Multi-Material Device

DECISION ON PETITION
under 37 C.F.R. § 1.181

This is a decision on Applicant's Petition under 37 CFR 1.181, filed on December 2, 2009, to invoke Supervisory Authority and to appoint a new examiner. The petition is before the Director of Technology Center 2800 for review.

The Petition is **DIMISSED** as moot.

Petitioner requests an "Appointment of a new Examiner" in an effort to have this case and application 11/051,263 under the same examiner. As both cases are currently assigned to Examiner Evan Pert in Art Unit 2826, the petition is dismissed as moot.

Any questions regarding this decision should be directed to Davienne Monbleau, Supervisory Patent Examiner, at 571-272-1945.

Jack Harvey, Director
Technology Center 2800
Semiconductors, Electrical and Optical Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DONALD O. NICKEY
8765 COLVIN ROAD
PLAIN CITY OH 43064

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

In re Patent No. 6,923,995 :
Issue Date: August 02, 2005 :
Application No. 10/107,944 : DECISION ON PETITION
Filed: March 27, 2002 :
Attorney Docket No. NAT-006 :

This is a decision on the petition under 37 CFR 1.378(c), filed January 13, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on August 02, 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 fee address (form PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **CHERYL S. SCOTNEY**
6300 RIVERSIDE DRIVE
DUBLIN OH 43017

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HOWARD & HOWARD ATTORNEYS PLLC
450 WEST FOURTH STREET
ROYAL OAK MI 48067

MAILED

FEB 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,208,195	:	
Issued: April 24, 2007	:	
Application No. 10/108,140	:	ON PETITION
Filed: March 27, 2002	:	
Attorney Docket No. 7053-7	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed January 6, 2011.

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

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

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

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

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Eduardo J. Quinones
525 Okeechobee Blvd, 15th Floor
West Palm Beach, FL 33410

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)
6565946	2003-05-20	10108820	2002-03-26	006759.00025

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

SMALL ENTITY

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

LOSS 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	/Paul M. Rivard/	Date (YYYY-MM-DD)	2011-08-03
Name	Paul M. Rivard	Registration Number	43446

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6565946
Issue Date: May 20,2003
Application No. 10108820
Filed: March 26,2002
Attorney Docket No. A-70622-2/ESW

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

This is a decision on the electronic petition, filed August 4,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 4,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 7184170
Issue Date: February 27,2007
Application No. 10109122
Filed: March 28,2002
Attorney Docket No. 2002US002

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

This is a decision on the electronic petition, filed May 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 May 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)
7184170	2007-02-27	10/109,122	2002-03-28	2002US002

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

SMALL ENTITY

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

LOSS 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	/tod a. waldrop/	Date (YYYY-MM-DD)	2011-05-13
Name	Tod A. Waldrop	Registration Number	56260

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7201777
Issue Date: April 10,2007
Application No. 10109357
Filed: March 28,2002
Attorney Docket No. 5447

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

This is a decision on the electronic petition, filed June 9,2011 ,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 9,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
7201777	2007-04-10	10109357	2002-03-28	5447

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

SMALL ENTITY

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

LOSS 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 Robertson/	Date (YYYY-MM-DD)	2011-06-09
Name	James Robertson	Registration Number	36905

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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

MAILED

AUG 02 2010

OFFICE OF PETITIONS

THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

In re Application of :
Robert C. Leif, et al. :
Application No. 10/110,114 : DECISION ON PETITION
Filed: August 23, 2002 :
Attorney Docket No. 90022 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 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 May 14, 2008, 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 June 15, 2008. The Notice of Abandonment was mailed October 2, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election and amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on July 15, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 1641 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **R. Scott Kimsey**
1000 Walnut Street
Suite 1400
Kansas City, MO 64106

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 2 9 2011

OFFICE OF PETITIONS

THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

In re Application of	:	
LEIF, et al	:	
Application No. 10/110,114	:	DECISION ON PETITION
Filed: August 23, 2002	:	
Attorney Docket No. 90022	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 13, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before June 23, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 23, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 24, 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.

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.

Please see the Denial of Request for Power of Attorney mailed September 19, 2011.

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.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: R. SCOTT KIMSEY
7509 GOLDEN RISE CT.
BAKERSFIELD CA 93313

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Taskin Sakarya
Bachstr. 17
D-35630 Ehringshausen (OT: Dreisbach)
Germany

MAILED

NOV 21 2011

OFFICE OF PETITIONS

In re Patent No. 7,248,853 :
Issue Date: July 24, 2007 :
Application No. 10/110,238 :
Filed April 10, 2002 :
For: DIRECT COMMUNICATION AND LOCALISATION OF MOBILE END EQUIPMENT AND EMERGENCY HANDLING :

This communication is in response to the petition under 37 CFR 1.137(a), filed September 29, 2011. This matter is being properly addressed pursuant to 37 CFR 1.378(b).

Prior to a decision on the merits of the petition submitted September 29, 2011, petitioner is hereby advised that submission of the maintenance fee surcharge (currently $700.00) and maintenance fee (currently $565.00) is a prerequisite prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.378(b).

The instant petition was accompanied by $1,190.00. Thus, the remaining fee due, $75.00, is required prior to the rendering of a decision on the merits of the instant petition.

Any request for reconsideration should include the required fee due.

If reconsideration of this matter is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b).

Any request for reconsideration must include the required fees. Petitioner is responsible for the fees in the amount due at the time of submission of the request for reconsideration. As USPTO fees are subject to change, petitioner is advised to review the fee schedule at http://www.uspto.gov/about/offices/cfo/finance/fees.jsp prior to submission of a request for reconsideration to ensure that the proper fees are submitted.

It is further noted that the correspondence address of record differs from that appearing above and in the instant petition. Absent the submission of a change of correspondence address, all

future correspondence concerning this patent will directed to the correspondence address of record.

Enclosed please find the proper form for submission of a petition under 37 CFR 1.378(b) and a change of correspondence address form.

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosures

PTO/SB/65 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450
Fax: (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

Patent Number: _____ Application Number: _____

Issue Date: _____ Filing Date: _____

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

Also complete the following information, if applicable:

The above-identified patent:

☐ is a reissue of original Patent No. _____ original issue date _____;
original application number _____ ,
original filing date _____ .

☐ resulted from the entry into the U.S. under 35 U.S.C. 371 of international application _____ filed on _____.

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is

(1) being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 OR

(2) transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

_____ _____
Date Signature

_____
Typed or printed name of person signing Certificate

This collection of information is required by 37 CFR 1.378(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 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: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

1. SMALL ENTITY

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

2. LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

The appropriate maintenance fee must be submitted with this petition, unless it was paid earlier.

NOT Small Entity			Small Entity		
Amount	Fee	(Code)	Amount	Fee	(Code)
☐ $ _____	3 ½ yr fee	(1551)	☐ $ _____	3 ½ yr fee	(2551)
☐ $ _____	7 ½ yr fee	(1552)	☐ $ _____	7 ½ yr fee	(2552)
☐ $ _____	11 ½ yr fee	(1553)	☐ $ _____	11 ½ yr fee	(2553)

MAINTENANCE FEE BEING SUBMITTED $ _____

4. SURCHARGE

The surcharge required by 37 CFR 1.20(i)(1) of $ _____ (Fee Code 1557) must be paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE FEE BEING SUBMITTED $ _____

5. MANNER OF PAYMENT

☐ Enclosed is a check for the sum of $ _____

☐ Please charge Deposit Account No. _____ the sum of $_____ .

☐ Payment by credit card. Form PTO-2038 is attached.

6. AUTHORIZATION TO CHARGE ANY FEE DEFICIENCY

☐ The Director is hereby authorized to charge any maintenance fee, surcharge or petition fee deficiency to Deposit Account No. _____ .

7. OVERPAYMENT

As to any overpayment made, please

☐ Credit to Deposit Account No. _____

OR

☐ Send refund check

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

8. SHOWING

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

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

Signature(s) of Petitioner(s)	Date
Typed or printed name(s)	Registration Number, if applicable
Address	Telephone Number
Address	

ENCLOSURES:

☐ Maintenance Fee Payment

☐ Statement why maintenance fee was not paid timely

☐ Surcharge under 37 CFR 1.20(i)(1) (fee for filing the maintenance fee petition)

☐ Other:

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

Signature	Date
Type or printed name	Registration Number, if applicable

STATEMENT

(In the space below, please provide the showing of unavoidable delay recited in paragraph 8 above.)

(Please attach additional sheets if additional space is needed)

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

PTO/SB/123 (11-08)
Approved for use through 11/30/2011. OMB 0651-0035
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.

CHANGE OF CORRESPONDENCE ADDRESS
Patent

Address to:
Mail Stop Post Issue
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Patent Number	
Issue Date	
Application Number	
Filing Date	
First Named Inventor	
Attorney Docket Number	

Please change the Correspondence Address for the above-identified patent to:

☐ The address associated with Customer Number:

OR

☐ **Firm *or* Individual Name**

Address

City	**State**	**ZIP**

Country

Telephone	**Email**

This form cannot be used to change the data associated with a Customer Number. To change the data associated with an existing Customer Number use "Request for Customer Number Data Change" (PTO/SB/124).

This form will not affect any "fee address" provided for the above-identified patent. To change a "fee address" use the "Fee Address Indication Form" (PTO/SB/47).

I am the:

☐ Patentee.

☐ Assignee of record of the entire interest. See 37 CFR 3.71.
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

☐ Attorney or agent of record. Registration Number _____.

Signature

Typed or Printed Name

Date	Telephone

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 37 CFR 1.33. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Post Issue, 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

TASKIN SAKARYA
BERLINER STR. 6
EHRINGSHAUSEN 35630 DE GERMANY

MAILED
MAR 22 2012
OFFICE OF PETITIONS

In re Patent No. 7,248,853
Issue Date: July 24, 2007
Application No. 10/110,238
Filed: April 10, 2002
For: DIRECT COMMUNICATION AND LOCALISATION OF MOBILE END EQUIPMENT AND EMERGENCY HANDLING

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.378(b), filed December 22, 2011, to accept an unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

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

The patent issued July 24, 2007. The 3.5 year maintenance fee could have been paid from July 24, 2010 through January 24, 2011, or with a surcharge during the period from January 25, 2011 through July 24, 2011. Accordingly, the patent expired July 24, 2011, for failure to timely submit the maintenance fee.

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

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

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

Petitioner attributes the failure to timely pay the maintenance fee to a computer crash wherein petitioner states:

> "Normally to pay in time I have a reminder in my computer. But unfortunately HD in PC is crashed and I have received the "payment-reminder" from USPTO too late. This was due to our address change and at the time severe financial difficulties we had.
>
> Additional to this, at the new address, we have no fix telephone-connection and this although we have requested one since 5-months. It is a small village and the mobile communication is very poor. Due to this we have also a very bad internet facility at the moment. Deutsche Telecom has now a new date: end of this month for the telephone line.
>
> I have received the notice of expiration on 09/16/2011 and put immediately my petition forward for this patent and appreciate it a lot if you could grant it. I have also installed the reminder into another PC and downloaded the forms new to make sure that the future renewal payments be in time."

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

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". See, 35 U.S.C. § 41(c)(1). 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 U.S.C. § 41(b) requires the payment of the 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 at 609, 34 USPQ2d at 1788. That is, an adequate showing that the delay in payment of the maintenance fee

at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 C.F.R. § 1.378(b)(3) requires a showing of the steps taken by the responsible party. Id.

Petitioner must establish that petitioner 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, petitioner was "unavoidably" prevented from making the maintenance fee payment due to failure of the docketing system tracking the maintenance fee due date. Petitioner has failed to satisfy this burden of proof.

Petitioner has failed to establish that steps were in place to ensure the timely payment of the maintenance fee. To this end, petitioner has failed to adequately describe the manner by which petitioner docketed the maintenance fee payment. To this end, petitioner merely references a "reminder" in his computer. Petitioner has failed establish that it was reasonable to rely on the computer for the purpose of providing a reminder. Further, petitioner has failed to establish that a maintenance fee due date for the instant petition was ever entered in any docketing system or reminder system.

Petitioner asserts that he received the USPTO maintenance fee due reminder "too late" and asserts that this may be been due to a change of correspondence address. Be advised that under the statutes and rules, the Office has no duty to notify patentee of the requirement to pay maintenance fees or to notify patentee when the maintenance fee is due. It is solely the responsibility of the patentee to ensure that the maintenance fee is paid timely to prevent expiration of the patent. The failure to receive the reminder notice will not shift the burden of monitoring the time for paying a maintenance fee from the patentee to the Office. The Office will attempt to assist patentees through the mailing of a Maintenance Fee Reminder in the grace period. However, the failure to receive a Maintenance Fee Reminder will not relieve the patentee of the obligation to timely pay the appropriate maintenance fee to prevent expiration of the patent, nor will it constitute unavoidable delay if the patentee seeks to reinstate the patent under 37 CFR 1.378(b). See In re Patent No. 4,409,763, 7 USPQ2d 1798 (Comm'r Pat. 1988), aff 'd sub nom. Rydeen v. Quigg, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff 'd, 937 F.2d 623 (Fed. Cir. 1991) (table), cert. denied, 502 U.S. 1075 (1992).

The nexus between the alleged computer crash, change of address, and financial difficulties has not been established. Failure to change one's correspondence address of record before the USPTO does not amount to unavoidable delay.

To the extent that petitioner attributes the failure to timely remit the maintenance fee to financial hardship, the petition is not accompanied by any details or documentary evidence of the alleged financial hardship. Further, petition fails to indicate when such financial hardship commenced and/or ended. Moreover, petitioner has failed to establish a nexus between any alleged financial hardship and the failure to timely remit the maintenance fee payment.

The nexus between the lack of telephone and the failure to timely remit the maintenance fee has not been established. Lack of telephone does not lead to a finding of unavoidable delay.

In view of the lack of documentary evidence or detailed declaration of facts, it cannot be found that the entire period of time, from the time that the maintenance fee was due until the filing of a grantable petition, was unavoidable. Accordingly, the petition to reinstate the patent must be dismissed.

Petitioners may request a refund of the previously submitted surcharge and maintenance fee. Petitioners may request a refund by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

Any renewed petition must establish that the entire period of delay from the time that the maintenance fee was due until the time of the filing of a grantable petition has been unavoidable. Petitioner is reminded that any renewed petition should entail an exhaustive effort to establish that the failure to timely pay the maintenance fee was unavoidable as after reconsideration pursuant to 37 CFR 1.378(e), no further reconsideration regarding unavoidable delay will be undertaken. Petitioner may provide any and all documents and declaration so fact that he wishes the Office to consider prior to making a decision on the request for reinstatement of the patent

ALTERNATE VENUE

Petitioner may wish to consider submitting a petition stating that the failure to timely remit the maintenance fee was unintentional pursuant to 37 CFR 1.378(c). Any petition to accept an unintentionally delayed payment of a maintenance fee filed under paragraph (a) of this section must be filed within twenty-four months after the six-month grace period provided in § 1.362(e) and must include: (1)The required maintenance fee set forth in § 1.20 (e) through (g); (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.

Enclosed please find as a courtesy a copy of PTO/SB/66. Petitioner is advised that the surcharge required under 37 CFR 1.378(c)(2) is currently $1,640.00 and **is not** subject to waiver. The small entity 7.5 year maintenance fee is currently $1,425.00. If desired, the previously submitted fee totaling $2,880.00 can be used in connection with a petition filed pursuant to 37 CFR 1.378(c). However, any request for reconsideration would require the submission of the remaining fee due.

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. Enclosed please find PTO/SB/123 which may be used to effect a proper change in correspondence address before the Office.

Telephone inquiries concerning this matter may be directed to the undersigned at 571-272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosures

UNITED STATES 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

SEP 17 2010

OFFICE OF PETITIONS

In re Application of :
Koyata et al. :
Application No. 10/110,672 :
Filed: April 16, 2002 : ON APPLICATION FOR
Attorney Docket No. 09812.0513 : PATENT TERM ADJUSTMENT
Title: COMMUNICATION SYSTEM, :
COMMUNICATION APPARATUS, :
COMMUNICATION METHOD, RECORD :
MEDIUM, AND PROGRAM :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT-PRE-GRANT," filed December 8, 2009. Applicants contend the patent term adjustment under 35 U.S.C. §154(b) of 1914 days.

The application for patent term adjustment is **DISMISSED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 hundred **(200)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 11, 2009, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 717 days. In response, applicants 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 contends that the restriction requirement mailed on June 2, 2005 did not meet the requirements of 37 CFR 1.702(a)(1) because the restriction requirement was vacated and as such the first action mailed was on September 11, 2008. Thus an adjustment of 1914 days is required.

Applicants' argument is not persuasive. A review of the record shows that the 717 day adjustment was required for failure by the Office to mail at least one of the notifications under 35 U.S.C. 132 not later than fourteen months after the date the application was filed under 35 USC 1.111(a), pursuant to 37 CFR §1.702(a)(1).

The mailing of the restriction requirement on June 2, 2005, met the requirements of 37 CFR §1.702(a)(1). The subsequent mailing of a communication by the examiner vacating the previous action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on June 2, 2005. 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 June 2, 2005 will be used to calculate the amount of Office delay.

In light of the abandonment of the application a reduction of 517 days is warranted, 37 CFR 1.704(c) provides 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:
>
> (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.

In this instance the application went abandoned on July 3, 2005. A grantable petition to revive under 37 CFR 1.137(b) was filed on October 4, 2006 and granted upon the mailing of the instant decision.

In accordance with 37 CFR 1.704(c)(3), the adjustment is properly reduced 517 days. The period of reduction commenced July 3, 2005, the date of abandonment, and ended December 1, 2006 the date of the original decision on the petition for revival. *See*, 37 CFR 1.704(c)(3)(ii).

Applicants' delay prior to the mailing of the Notice of Allowance is 517 days. Office delay prior to the mailing of the Notice of Allowance is 717 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 200 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*: 10110672 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10110672

Application Filing Date 04/16/2002	Overlapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 717
A Delays 717	PTO Manual Adjustment -517
B Delays 0	Applicant Delay (APPL) 0
C Delays 0	Total PTA (days) 200

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
75	09/16/2010		PO28	Adjustment of PTA Calculation by PTO		517	0
68	09/18/2009		MN/=.	Mail Notice of Allowance			0
67	09/17/2009		IREV	Issue Revision Completed			0
66	09/17/2009		DVER	Document Verification			0
65	09/17/2009		N/=.	Notice of Allowance Data Verification Completed			0
64	09/17/2009		DOCK	Case Docketed to Examiner in GAU			0
63	09/17/2009		CNTA	Notice of Allowability			0
59	09/03/2009		FWDX	Date Forwarded to Examiner			0
57	09/03/2009		ABN9	Disposal for a RCE / CPA / R129			0
62	08/26/2009		IDSC	Information Disclosure Statement considered			0
61	08/26/2009		RCAP	Reference capture on IDS			0
60	08/26/2009		M844	Information Disclosure Statement (IDS) Filed			0
58	08/26/2009		RCEX	Request for Continued Examination (RCE)			0
56	08/26/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
55	08/26/2009		BRCE	Workflow - Request for RCE - Begin			0
54	07/20/2009		FIDC	Finished Initial Data Capture			0
53	07/09/2009		QURF	Workflow - Query Request - Finish			0
52	07/09/2009		TCPUB	TC Return to Pubs			0
51	07/09/2009		MEX.A	Mail Examiner's Amendment			0
50	07/06/2009		IREV	Issue Revision Completed			0
49	07/06/2009		TCPUB	TC Return to Pubs			0
48	07/06/2009		EX.A	Examiner's Amendment Communication			0
46	07/01/2009		QURI	Workflow - Query Request - Begin			0
47	06/29/2009		PUBTC	Pubs Case Remand to TC			0
45	06/16/2009		EIDC	Export to Initial Data Capture			0
44	06/11/2009		MN/=.	Mail Notice of Allowance			0
43	06/09/2009		IREV	Issue Revision Completed			0
42	06/09/2009		DVER	Document Verification			0
41	06/09/2009		N/=.	Notice of Allowance Data Verification Completed			0
40	06/05/2009		CNTA	Notice of Allowability			0
39	05/29/2009		FWDX	Date Forwarded to Examiner			0
37	05/29/2009		FWDX	Date Forwarded to Examiner			0
35	05/29/2009		ABN9	Disposal for a RCE / CPA / R129			0
38	05/12/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
36	05/12/2009		RCEX	Request for Continued Examination (RCE)			0
34	05/12/2009		BRCE	Workflow - Request for RCE - Begin			0
33	03/17/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
32	03/15/2009		CTFR	Final Rejection			0
31	01/13/2009		FWDX	Date Forwarded to Examiner			0
30	12/10/2008		A...	Response after Non-Final Action			0
29	09/16/2008		AFAOM	Add FAOM Count			0
28	09/16/2008		2092	FAOM Flag Change			0
27	09/11/2008		MSRNF	Mail Supplemental Non-Final Action			0
26	09/10/2008		SRNF	Supplemental Non-Final Action			0
23	01/22/2007		IDSC	Information Disclosure Statement considered			0
20.7	01/22/2007		M844	Information Disclosure Statement (IDS) Filed			0
20	01/22/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
19	12/01/2006		MPTDI	Mail-Petition Decision - Dismissed			0
18	11/06/2006		DOCK	Case Docketed to Examiner in GAU			0
17	10/04/2006		PET.	Petition Entered			0
16	09/28/2006		DOCK	Case Docketed to Examiner in GAU			0
15	09/26/2006		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
14	09/07/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
12	07/24/2006		DOCK	Case Docketed to Examiner in GAU			0
11	02/02/2006		C.AD	Correspondence Address Change			0
10	02/02/2006		PA..	Change in Power of Attorney (May Include Associate POA)			0
9	06/02/2005	06/16/2003	MCTNF	Mail Non-Final Rejection	717		1
8	05/31/2005		CTNF	Non-Final Rejection			0
7	04/09/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
6	08/20/2002		DOCK	Case Docketed to Examiner in GAU			0
5	07/16/2002		TI1050	Transfer Inquiry to GAU			0
4	07/10/2002		OIPE	Application Dispatched from OIPE			0
3	07/05/2002		SCAN	IFW Scan & PACR Auto Security Review			0
2	06/27/2002		M903	Notice of DO/EO Acceptance Mailed			0
22	04/16/2002		IDSC	Information Disclosure Statement considered			0
21	04/16/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
1	04/16/2002		IEXX	Initial Exam Team nn			0

Export to: Excel

UNITED STATES 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

SEP 17 2010

OFFICE OF PETITIONS

In re Application of :
Koyata et al. :
Application No. 10/110,672 : DECISION ON PETITION
Filed: April 16, 2002 :
Attorney Docket No. 09812.0513-00000 :

This decision vacates the decision mailed on December 1, 2006 and treats the petition filed on October 4, 2006 under the unintentional provisions of 37 CFR 1.137(b), 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 restriction requirement mailed June 2, 2005. The Office Action set a one (1) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on July 3, 2005. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a petition (2) the petition fee of $1500.00, and (3) a statement of unintentional delay.

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

MAILED

MAR 23 2012

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Patent No. 6,719,497
Issued: April 13, 2004
Application No.: 10/111,603
Filing Date: September 16, 2002
Attorney Docket No. **16565.0007FPWO**

REQUEST FOR INFORMATION

This is a request for information in response to the petition under 37 CFR 1.378(b), filed December 7, 2011, to reinstate the above-cited patent.

Petitioner is allowed a non-extendable period for reply of **TWO (2) MONTHS** from the mailing date of this communication to provide a response. The response should be titled, "Response to Request for Information." If no response is provided within the period set forth, a decision will be made solely on the merits as set forth in the petition under 37 CFR 1.378(b) filed December 7, 2011. No additional fees are due.

The patent issued April 13, 2004. The 3.5 year maintenance fee could have been paid from April 13, 2007, through October 13, 2007, or with a surcharge, as authorized by 37 CFR 1.20(h), during the period from October 14, 2007, to April 13, 2008. Petitioner did not do so. Accordingly, the patent expired at midnight on April 13, 2008.

Petitioner is required to address the following points:

- Section 711.03(c)(2) of the Manual of Patent Examining Procedure, provides, in pertinent part that:

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

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

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

  (B) there was in place a business routine for performing the clerical function that could

reasonably be relied upon to avoid errors in its performance; and

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

A delay resulting from an error, such 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. Such a showing should identify the specific error, the individual who made the error, and the business routine in place for performing the action which resulted in the error. The showing must establish that the individual who erred, i.e., Ms. Martinelli, 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. The showing should be offered by the supervisor of Ms. Martinelli and include 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 task.

- Relative to the docketing system used by the European Patent Annuity Service (EPAS), please provide:

  1) Additional information regarding the docketing system used by the EPAS and its use in the industry and why it is a reliable system.
  2) Additional information regarding the data required to be entered into the docketing system for each patent.
  3) Additional information relative to any cross checks in the docketing system that are engineered to compensate for data entry errors, such as the error alleged in the petition.

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

By mail: Commissioner for Patent
Mail Stop Petitions
Box 1450
Alexandria, VA 22313-1460

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAYER BROWN LLP
P.O. BOX 2828
CHICAGO IL 60690

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Qing Chen, et al. :
Application No. 10/113,230 : DECISION ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. 0192675 :

This is a decision on the petition, filed June 21, 2006, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit correct drawings on or before January 23, 2006, as required by the Notice Regarding Drawings (Notice), mailed November 22, 2005. A Notice of abandonment was mailed April 21, 2006.

Petitioner asserts that the Notice dated November 22, 2005 was not received.

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

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the non-received Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

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

Telephone inquiries concerning this decision should be directed to April M. Wise at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for **re-mailing** the Notice Regarding Drawings of November 22, 2005. The period for submitting corrected drawings will be reset to expire two (2) months from the date the Notice is re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Patent No. 7,680,875
Issued: March 16, 2010
Application No. 10/113,235
Filed: April 1, 2002
Attorney Docket No. 1565.040US 1

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR POST ISSUE PATENT TERM ADJUSTMENT UNDER 37 C.F.R §. 1.705(b)" filed June 17, 2010, requesting that the patent term adjustment determination for the above-identified patent be changed from 2367 days to 2477 days. Since the request is after issuance, the request is being treated under 37 CFR 1.705(d). Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).[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 adjusted by two thousand fifty-one (2051) days and is **GRANTED to the extent indicated herein**.

Patentee has miscalculated the total patent term adjustment. In this instance the period consumed by appellate review begins on December 4, 2006 and ends on December 7, 2009 and is 1100 days. Further, the Office has determined that the period of overlap is 611 days. Considering the exclusion and the overlap, the "B delay" is 99 days. Thus, the patent term adjustment is decreased to 2051 days.

Additionally, the Office erred in according both 1100 days of adjustment for Office delay in issuing a Board decision, pursuant to 37 CFR 1.703(e) and 91 days of adjustment for Office delay in issuing an Examiner's answer, pursuant to 37 CFR 1.703(a)(3) . 37 CFR 1.702 provides for a day-to-day adjustment of patent term adjustment for Office delay to the extent that the delays do not overlap. In this instance, the 91 day period of Office delay, begins on June 26, 2007 and ends on September 25, 2007 This period totally overlaps with the Office delay in issuing the Board decision, which begins on December 4, 2006 and ends on December 7, 2009. Accordingly, only a period of adjustment of

---

[1]Reconsidered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

1100 days should have been entered. The period of adjustment of 91 days is being removed.

As such, the patent term adjustment is 2051 (1956 "A delay" days, plus 99 "B delay" days, minus 4 applicant delay days) not 2477.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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 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 fifty-one (2051)** days.

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 DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,680,875 B1

DATED : March 16, 2010

INVENTOR(S) : Jonathan E. Shopiro

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 (2367) days

Delete the phrase "by 2367 days" and insert – by 2051 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

In re Patent No. 7016704
Issue Date: March 21,2006
Application No. 10113239
Filed: April 1,2002
Attorney Docket No. MOVE02

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

This is a decision on the electronic petition, filed November 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 November 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
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7016704	2006-03-21	10/113,239	2002-04-01	

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.

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	/Matthew G. Pallakoff/	Date (YYYY-MM-DD)	2010-11-06
Name	Matthew G. Pallakoff		

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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

MAILED

JUL 08 2011

OFFICE OF PETITIONS

ZAGORIN O'BRIEN GRAHAM LLP (1001)
7600B NORTH CAPITAL OF TEXAS HIGHWAY, SUITE 350
AUSTIN, TX 78731-1191

In re Application of	:	
Evandro MENEZES, et *al.*	:	
Application No. 10/113,340	:	DECISION ON PETITION
Filed: March 29, 2002	:	UNDER 37 CFR 1.181
Attorney Docket No. **1001-0190**	:	

This is a decision on the petition, filed December 16, 2010, which is being treated as a petition under 37 CFR 1.181, 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 decision by the Board of Patent Appeals and Interference of November 30, 2010, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before January 30, 2011.

Petitioner states that "on November 30, 2010, the Board of Patent Appeals and Interference issued its decision, in which it maintained the examiners decision to reject claims 1-3, 5-10, 13-14, 17, 18, and 21-24, and reversed the examiner as to the rejection of claim 15. On December 14, 2010, examiner issued a Notice of Abandonment, which indicated that the present application is abandoned in light of "applicant's failure to reply as examiner suggested to add claim 15 into independent claims 1, 17, 21 and 22."

A review of the file history indicates that on November 30, 2010, a Decision on Appeal was rendered in which claims 1-3, 5-10, 13, 14, 17, 18, and 21-24 were affirmed. Claim 15 was reversed. On December 6, 2010, the examiner called the applicant requesting that the limitations of claims 15 be incorporated into the independent claims. On December 14, 2010 the examiner, after providing an

Interview Summary erroneously abandoned the application. On December 16, 2010, the applicant submitted a response that included an Interview Summary, Supplemental Amendment and Petitions to Withdraw Holding of Abandonment. Since the response was filed prior to the expiration of the two month time period for filing an appeal or commencing a civil action, the response is timely and the application is not abandoned.

37 CFR 1.304(a)(1) provides that "if a request for rehearing or reconsideration of the decision is filed within the time period provided under §41.52(a), §41.79(a), or §41.127(d) of this title, the time for filing an appeal or commencing a civil action shall expire two months after action on the request."

Accordingly, the Notice of Abandonment mailed December 14, 2010 is hereby vacated and the holding of abandonment withdrawn.

Telephone inquires regarding this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2473 for appropriate action by the Examiner in accordance with the guidelines of MPEP1214.06 II "Claims Stand Allowed".

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

NIXON PEABODY, LLP
401 9TH STREET, SUITE 900
WASHINGTON, DC 20004-2128

MAILED
DEC 06 2010
OFFICE OF PETITIONS

In re Application of :
Nancy K. Fisher :
Application No. 10/113,568 : DECISION ON PETITION
Filed: April 2, 2002 : TO WITHDRAW
Attorney Docket No.: 047530-000005 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 11, 2010.

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 request is filed by Jeffrey L. Costellia on behalf of the practitioners of record associated with Customer Number 22204.

The Office no longer accepts an address change to the new practitioner identified in the request, absent the filing of a power of attorney to the new representative. The Office will, however, change the correspondence address of record to the most current address provided for (1) the intervening assignee of the entire interest or (2) the first named inventor.

The request to withdraw from record cannot be approved at this time, since the correspondence address does not identify the intervening assignee of the entire interest or the first named inventor.

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 571-272-3210. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Nancy K. Ghanem
300 Carlsbad Village Dr., #108-A
Carlsbad, CA 92008

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of
Nancy K. Fisher
Application No. 10/113,568
Filed: April 2, 2002
Attorney Docket No. 047530-000005

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 December 21, 2010.

The request is **APPROVED**.

The request was signed by Jeffrey L. Costellia on behalf of the practitioners of record associated with Customer Number 22204.

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

All future correspondence will be directed to inventor Nancy K. Fisher at the address indicated below.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Nancy K. Fisher
300 Carlsbad Village Dr., #108-A
Carlsbad, CA 92008

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
10/113,568	04/02/2002	Nancy K. Fisher	047530-000005

CONFIRMATION NO. 6872

POWER OF ATTORNEY NOTICE

22204
NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

Date Mailed: 01/31/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2010.

- 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.

/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
10/113,568	04/02/2002	Nancy K. Fisher	047530-000005

CONFIRMATION NO. 6872

NANCY K. FISHER
300 CARLSBAD VILLAGE DR., #108-A
CARLSBAD, CA 92008

POA ACCEPTANCE LETTER

OC00000045752740

Date Mailed: 01/31/2011

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/21/2010.

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

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

Dwight Rettig
General Counsel National Oilwell Varco
10,000 Richmond Avenue
Houston TX 77042

MAILED

MAR 28 2011

OFFICE OF PETITIONS

In re Patent No. 6,755,261 :
Issue Date: June 29, 2004 :
Application No. 10/113,631 : DECISION ON PETITION
Filed: March 07, 2002 :
:

This is a decision on the petition under 37 CFR 1.378(c), filed on November 08, 2010, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

The above-identified patent issued on June 29, 2004. Therefore, the grace period in 35 U.S.C. § 41(b) for paying the three and one-half year maintenance fee expired on October 3, 2004.

A petition under 37 CFR 1.378(c) must be filed within twenty-four months after the six month grace period specified in 35 USC 41(b). The six months grace period for the instant patent expired at midnight on June 29, 2008. Accordingly, an unintentional petition to reinstate the instant patent must have been submitted no later than June 29, 2010. Since the petition was not timely filed, the instant patent will not be reinstated under the unintentional provisions of 37 CFR 1.378(c).

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

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

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $2,620 submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of fee address (form

PTO/SB/47) and a request for customer number (form PTO/SB/125) should be filed in accordance with Manual of Patent Examining Procedure, section 2540. A courtesy copy of this decision is being mailed to the address on the petition. However, the Office will mail all future correspondence solely to the address of record.

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

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

By Mail:	Mail Stop PETITIONS 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 Fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Tredelle Jackson at (571) 272-2783.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **VICTOR SEGURA**
7909 PARKWOOD CIRCLE DR.
HOUSTON TX 77036

UNITED STATES 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 13 2010

Dean P. Alderucci
Canter Fitzgerald, L.P.
110 East 59th Street (6th Floor)
New York, NY 10022

In re Application of:
Andrew C. Gilbert et al.
Application No. 10/113,841
Filed: March 29, 2002
Attorney Docket No.: 11-1050
For: REQUEST FOR QUOTE (RFQ) AND INSIDE MARKETS

DECISION ON PETITION UNDER 37 CFR 1.181

This is a decision on the petition entitled "PETITION TO REOPEN PROSECUTION AFTER PREMATURE FINAL REJECTION, OR IN THE ALTERNATIVE, FROM REFUSAL TO ENTER AMENDMENT AND FOR IMPLEMENTATION OF INSTRUCTIONS FROM THE PRESIDENT" filed on October 14, 2009. This petition is being treated as a petition under 37 CFR 1.181 requesting that the Director invoke her supervisory authority to withdraw the finality of the Office action mailed February 19, 2009 and enter the after-final amendment filed July 29, 2009.

This is also a decision on the petition entitled "PETITION FOR DECISION ON PETITION, OR IN THE ALTERNATIVE, CONDITIONAL PETITION FOR EXTENSION OF TIME," filed on March 19, 2010, requesting that the petition of October 14, 2009 be decided and if denied an extension of time be granted to file an appeal.

The petition under 37 CFR 1.181, requesting withdrawal of the finality of the final Office action mailed February 19, 2009, and the entry of the after-final amendment filed July 29, 2009 is **DENIED**.

The petition under 37 CFR 1.136(b), requesting extensions of time for filing an appeal brief, is **GRANTED** to the extent that a one-month time period is provided for applicants to file an appeal brief in compliance with 37 CFR 41.37.

Accordingly, the finality of final Office action mailed February 19, 2009 is **not** withdrawn and the entry of the after-final amendment filed on July 29, 2009 is **denied**. An appeal brief in compliance with 37 CFR 41.37 must be filed with **one month** from the mailing of this decision to avoid sua sponte dismissal of the appeal. The time period is extendable under 37 CFR 1.136(a).

BACKGROUND

1. The instant application was filed on March 29, 2002 and claims priority to provisional application 60/280,692. The application as filed contains 33 pages of specification, an additional 28 pages of claims (total 138 claims) and 13 sheets of drawings.

2. On January 23, 2008, a non-final Office action was mailed after the filing of a request for continued examination (RCE).

3. On February 25, 2008, a reply to the non-final Office action was filed. This reply was titled, "REQUEST FOR COMPLETION OF OFFICE ACTION PURSUANT TO MPEP 710.06 AND REQUEST FOR RECONSIDERATION ON THE ISSUE OF PREMATURE FINAL REJECTION."

4. On April 23, 2008, a supplemental reply to the non-final Office action was filed including amendment to the claims. At this point claims 1-10, 13-64, 70-133 and 139-174 were pending; claims 11-12 were cancelled and claims 64-69 and 134-138 were withdrawn. In this reply claims 1, 57-60, 62, 70, 75, 84, 88, 89, 91, 92, 107, 108, 110, 111, 119, 121, 123, 126, 139, 140, 157, 158, and 165 were amended.[1]

5. On February 19, 2009 a final Office action was mailed.

6. On July 29, 2009, a first after final reply was filed including an after final amendment under 37 CFR 1.116, and a request for reconsideration and request to withdraw the finality of the final Office action mailed February 19, 2009.

7. An advisory action was mailed on August 14, 2009 indicating that the amendments submitted required further search and consideration and therefore would not be entered.

8. On August 19, 2009 Applicant filed a second after-final reply requesting reconsideration of the previous request to withdraw finality and well as entry of the amendments submitted with the July 29, 2009 reply.

9. An advisory action was mailed on September 11, 2009 pointing out, once again that the amendments filed by applicant in the July 29, 2009 after final reply would not be entered as they required further search and consideration.

10. On October 14, 2009 Applicant filed the instant petition under 37 CFR 1.181 requesting the Director invoke her supervisory authority, withdraw the finality of the final Office action mailed February 19, 2009 and enter the after-final amendment filed on July 29, 2009.

11. On March 19, 2010 Applicant filed a second petition requesting a decision on the October 14, 2009 petition and further requesting an extension of time under 37 CFR 1.136(b) to file an appeal brief.

---

[1] On page 9 of the instant petition (filed Oct 14, 2009) on lines 3-5, Petitioners admit and agree that that April 2008 paper is "a §1.111(b) reply, sufficient to prevent abandonment."

STATUTE, REGULATION, AND EXAMINING PROCEDURE

37 CFR 1.104(c)[2] provides that:

> (1) If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.
> (2) In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.
> (3) In rejecting claims the examiner may rely upon admissions by the applicant, or the patent owner in a reexamination proceeding, as to any matter affecting patentability and, insofar as rejections in applications are concerned, may also rely upon facts within his or her knowledge pursuant to paragraph (d)(2) of this section.

37 CFR 1.113[3] provides that:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's, or for ex parte reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Director in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an inter panes reexamination filed under § 1.913, see § 1.953.
> (b) In making such final rejection, the examiner shall repeat or state all grounds of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.
> (c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

37 CFR 1.116[4] provides that:

> (a) An amendment after final action must comply with § 1.114 or this section.
> (b) After a final rejection or other final action (§ 1.113) in an application or in an ex parte reexamination filed under § 1.510, or an action closing prosecution (§ 1.949) in an inter partes reexamination filed under § 1.913, but before or on the same date of filing an appeal (§ 41.31 or § 41.61 of this title):

---

[2] See 37 CFR 1.104(c)(2004).
[3] See 37 CFR 1.113 (2004)
[4] See 37 CFR 1.116 (2004)

(1) An amendment may be made canceling claims or complying with any requirement of form expressly set forth in a previous Office action;
(2) An amendment presenting rejected claims in better form for consideration on appeal may be admitted; or
(3) An amendment touching the merits of the application or patent under reexamination may be admitted upon a showing of good and sufficient reasons why the amendment is necessary and was not earlier presented.
(c) The admission of, or refusal to admit, any amendment after a final rejection, a final action, an action closing prosecution, or any related proceedings will not operate to relieve the application or reexamination proceeding from its condition as subject to appeal or to save the application from abandonment under § 1.135, or the reexamination prosecution from termination under § 1.550(d) or § 1.957(b) or limitation of further prosecution under § 1.957(c).

37 CFR 1.136(b)[5] provides that:

> When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for sufficient cause and for a reasonable time specified. Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute. See § 1.304 for extensions of time to appeal to the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.550(c) for extensions of time in ex parte reexamination proceedings; § 1.956 for extensions of time in inter partes reexamination proceedings; and §§ 41.4(a) and 41.121(a)(3) of this title for extensions of time in contested cases before the Board of Patent Appeals and Interferences. Any request under this section must be accompanied by the petition fee set forth in § 1.17(g).

37 CFR 1.181(a)[6] provides that (with emphasis added):

> (a) Petition may be taken to the Director:
> (l) From **any action or requirement of any examiner** in the *ex parle* prosecution of an application, or in *ex parle* 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.

---

[5] See 37 CFR 1.136(b) (2004)
[6] See 37 CFR 1.181(2004)

MPEP § 706.07(a)[7] provides in pertinent part that (with emphasis added):

> Due to the change in practice as affecting final rejections, older decisions on questions of prematureness of final rejection or admission of subsequent amendments do not necessarily reflect present practice.
>
> **Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims**, nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) With the fee set forth in 37 CFR 1.17(p).

MPEP § 710.06[8] provides in pertinent part that:

> Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.
>
> Where for any reason it becomes necessary to remail any action (MPEP § 707.13), the action should be correspondingly redated, as it is the remailing date that establishes the beginning of the period for reply. **For Image File Wrapper (IFW) processing, see IFW Manual.
>
> A supplementary action after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited, establishes a new date from which the statutory period runs.
>
> If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.

---

[7] See Manual of Patent Examiner Procedure (MPEP) § 706.07(a) (8th ed. 2001)(Rev. 2, May 2004)

[8] See MPEP § 710.06 (8th ed. 2001)(Rev. 2, May 2004)

MPEP § 714.13 II.[9] provides in pertinent part that:

> 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.

MPEP § 1201[10] provides in pertinent part that (with emphasis added):

> The United States Patent and Trademark Office (Office) in administering the Patent Laws makes many decisions of a discretionary nature which the applicant may feel deny him or her the patent protection to which he or she is entitled. The differences of opinion on such matters can be justly resolved only by prescribing and following judicial procedures. **Where the differences of opinion concern the denial of patent claims because of prior art or material deficiencies in the disclosure set forth in the application, the questions thereby raised are said to relate to the merits, and appeal procedure within the Office and to the courts has long been provided by statute.** The line of demarcation between appealable matters for the Board of Patent Appeals and Interferences (Board) and petitionable matters for the Commissioner of Patents and Trademarks should be carefully observed. The Board will not ordinarily hear a question which it believes should be decided by the Commissioner, and the Commissioner will not ordinarily entertain a petition where the question presented is an appealable matter. However, since 37 CFR 1.181(f) states that any petition not filed within 2 months from the action complained of may be dismissed as untimely and since 37 CFR 1.144 states that petitions from restriction requirements must be filed no later than appeal, petitionable matters will rarely be present in a case by the time it is before the Board for a decision. *In re Watkinson,* 900 F.2d 230, 14 USPQ2d 1407 (Fed. Cir. 1990).

---

[9] See MPEP § 714.13 II (8th ed. 2001)(Rev. 2, May 2004)
[10] See MPEP § 1201 (8th ed. 2001)(Rev. 2, May 2004)

DECISION

Petitioners request that the finality of the final Office action mailed on February 19, 2009 (hereafter "the final Office action") be withdrawn and that the after-final amendment filed on July 29, 2009 be entered. The issues being decided in the instant decision are: (1) whether the finality of the final Office action mailed February 19, 2009 should be withdrawn; and (2) whether the after-final amendment filed on July 29, 2009 should be entered.[11]

A review of the record of the instant application shows that a non-final Office action was mailed on January 23, 2008 (hereafter "the non-final Office action") after the filing of an RCE. The examiner stated in the non-final Office action that 163 claims were pending and that all claims were rejected. The non-final Office action set forth, inter alia, the following prior art rejections with explanations:

(1) 41 claims were rejected under 35 U.S.C. §102(e) as being anticipated by Waelbroeck, U.S. Patent Publication 2002/0010672.

(2) 122 claims were rejected under 35 U.S.C. §102(e) and in the alternative under 35 U.S.C. §103(a) as being unpatentable over Walebroeck U.S. Patent Publication 2002/0010672.

Essentially, the examiner rejected all 163 claims using only one prior art reference (Waelbroeck) in the non-final rejection.

In response to applicant's reply, a final Office action was mailed on February 19, 2009, in which the examiner stated 162 claims were pending and that all claims were rejected. The final Office action set forth the same two rejections based on the same prior art reference (Waelbroeck).

The examiner incorporated the explanations of the rejections from the non-final Office action and also provided responses to applicant's arguments, starting on the second paragraph on page 18.

In determining whether a second or subsequent Office action may be made final, if the statutory basis for the rejection remains the same, and the reference(s) relied upon in support of the rejection remain the same, the rejecting is not considered a new ground of rejection in the final Office action unless the examiner's reasoning in support of the rejection in the latter Office action changes the basic thrust of the rejection relative to the rejection as set forth in the previous Office action. In the instant application, the examiner maintained the same statutory basis of rejection and relied upon the same references. The final Office action merely elaborated on the rejections in response to the applicants' arguments, and thus it did not change the basic thrust of the rejections. Accordingly, the final Office action did not introduce any new grounds of rejection within the meaning of MPEP 706.07(a).

---

[11] The relevant facts related to these two issues are set forth in the instant decision. Most of the petitioners' statements including those that are labeled as "facts" and/or "undisputed facts" in the instant petition are **not** actually "facts" or "undisputed facts" but are simply petitioners' contentions and allegations. The absence of a discussion of a contention or allegation by petitioners should **not** be taken as agreement with petitioners as to the contention or allegation.

Petitioners' arguments related to the issues of the finality of the final Office action and entry of the after-final amendment will be addressed in detail below.

THE FINALITY OF THE FINAL OFFICE ACTION MAILED ON FEBRUARY 19, 2009

Petitioners allege that the Office action of February 2009 is a remailing of the non-final Office action of January 2008 pursuant to MPEP 710.06. Petitioners further allege that they "filed two requests under MPEP 710.06, on February 25 and April 23, 2008"[12] and that "the PTO obligated itself to reissue the January 2008 Action with no advancement toward final." Petitioner further admits that the April 2008 paper is "a 1.111(b) reply, sufficient to prevent abandonment."

Petitioners' February 2008 reply purports to call "to the attention of the Office errors in the Office's paper of January 23, 2008," however Petitions provide no showing in support of an error in the non-final Office action. Rather, Petitioners make general allegation that previous Office actions have not addressed all material traversed.

In the April 2008 reply, Petitioners arguments with respect to the non-final Office action begin at the bottom of page 4, with the section titled "Failure to Comply with 37 C.F.R. 1.104(c) By Failing to Clearly Explain the Pertinence of References." Petitioners allege that the non-final Office action failed to comply with 37 CFR 1.104(c)2 by failing to clearly explain the pertinence of the references. However, petitioners did not provide any showing to support this contention, nor any explanation as to why the references are complex to petitioners other than to note that the cited portions of the references contain "eleven paragraphs" and "total over 200 lines".

A review of the record in the instant application shows that the applicants presented, on filing 33 pages of specification, an additional 28 pages of claims (total 138 claims), 13 sheets of drawings and over 20 reference via IDS. The examiner considered all references submitted and rejected all pending claims over one piece of prior art (Waelbroeck). The non-final Office action contains 13 pages of statements of prior art rejection and written explanations. Most of the claim limitations were pointed out by the examiner, especially those that may not have been readily apparent. Out of over 122 rejected claims, petitioners allege that only **one** claim limitation was not particularly pointed out (the term "penalty").

Further, contrary to petitioner's allegations, that the neither the SPE nor the examiner have considered this argument, the final Office action specifically addresses just this issue. Starting on the last paragraph on page 18,

> "With regard to Applicant request to reissue the previous non final office action, Applicant states that MPEP § 710.06 provides an applicant authority to return defective work product and require that it be redone, with no advancement toward final rejection. Applicant further states on page 5 (section IV, issue 10-11) of the Remarks dated 4/23/2008 that as per Rule 1.104, In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When

[12] See page 9, line 3-6 on instant petition (Oct 2009) - Petitioners admit that the April 2008 paper is "a 1.111(b) reply, sufficient to prevent abandonment . . . that much was agreed, and is not in dispute."

a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified. That is, in situations where the reference discloses anything more than or in addition to the invention claimed, as here, Rule 1.104 requires an Office Action must do two things: (i) "designate" portions as nearly as practicable, and (ii) "clearly explain" the pertinence. Does the Examiner agree or disagree, that there are two distinct requirements, and that merely designating disconnected paragraphs of a reference is insufficient to meet requirement (ii)?

"Examiner respectfully asserts that a person having ordinary skills in the art may realize that the nature of the Waelbroeck reference is not complex and therefore all parts of said reference have been designated as nearly as practicable and more than sufficient to meet the standard set forth in Rule 1.104. Therefore, Examiner maintains non-finality of the previous office action dated 1/23/2008."

Based on the facts of the instant application, the Waelbroeck reference relied upon should not be complex to the applicants or applicants' representative, who presented 138 pending claims, 33 pages of written description and over 20 references. Accordingly, the non-final Office action and the final Office action were **not** required to particularly point out where every claim limitation is met by the references. See 37 CFR 1.104(C)2 (**When a reference is complex or shows or describes inventions other than that claimed by the applicant**, the particular part relied upon much be designated as nearly as practicable)(emphasis added).

Further, it appears to be the Petitioners belief that MPEP 710.06 requires the Office to restart any previously set period for reply if requested to do so by an applicant. What Petitioner fails to consider is that any request submitted by an applicant must also include evidence in support of a contention that the previous Office action had an "error that affects applicant's ability to reply to the Office action."[13] A mere allegation that there is an error in the Office action or a request absence any evidence of an error is not sufficient to have the time period reset. In this case, the fact that Applicant was able to file a 1.111(b) reply is clear evidence that any alleged error was not so great that it affected their ability to reply.

Additionally, Petitioners are reminded arguments direct to the merits of the examiner's rejection and the reasoning underlying the rejection should be filed in an appeal. Even though petitioners draft their challenges as petitionable matter (withdraw the finality of the Office action) under 37 CFR 1.181, arguments drawn to the merits of a rejection (i.e. whether Waelbroeck actually teaches the claimed limitation of a "penalty") are not petitionable.

Finally, it should be noted that all issues raised by Petitioners in the petitions filed on October 14, 2009 and March 19, 2010 have been considered. Issues not specifically addressed in the instant decision, while considered, neither address the merits nor change my decision.

---

[13] See MPEP § 710.06 (8th ed. 2001)(Rev. 2, May 2004)

CONCLUSION

For the above stated reasons, the petition under 37 CFR 1.181, requesting the withdrawal of the finality of the final Office action mailed February 19, 2009 and the entry of the after-final amendment filed on July 19, 2009 is **DENIED**.

Accordingly, the finality of the final Office action mailed on February 19, 2009 is **not** withdrawn and the non-entry of the after-final amendment filed July 19, 2009 is maintained.

The petition under 37 CFR 1.136(a), requesting extensions of time for filing an appeal brief, is **GRANTED** to the extent that a one-month time period is provided to the applicants to file an appeal brief in compliance with 37 CFR 41.37.

Any questions regarding this decision should be directed to James Kramer at (571) 272-6783

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

JAK/snm:08/03/10

SM

UNITED STATES 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

JUL 14 2011

OFFICE OF PETITIONS

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK NY 10022

In re Application of
Andrew C. Gilbert et al.
Application No. 10/113,841
Filed: March 29, 2002
Attorney Docket No. 01-1050

ON PETITION

This is a response to the PETITION TO INVOKE SUPERVISORY AUTHORITY OF THE DIRECTOR AND PETITION FOR RULE MAKING, filed October 13, 2010, which is being treated as a petition under 37 CFR 1.181(a)(3), requesting that the Director exercise his supervisory authority to review and overturn the decision of the Director, Technology Center 3600 (Technology Center Director), dated August 13, 2010, which dismissed the petition filed October 14, 2009.

This is also a decision on the petition for extension of time under 27 CFR 1.136(b) filed March 19, 2010.

The petition under 37 CFR 1.181(a)(3), to overturn the decision of the Technology Center Director dated August 13, 2010, is **DENIED.** Accordingly, the Technology Center will **not** be directed to withdraw the finality of the final Office action mailed on February 19, 2009 or to enter the after final amendments filed on July 28, 2009 and August 19, 2009.

The petition under 37 CFR 1.136(b), requesting an extension of time for filing of an appeal brief, is **granted** to the extent petitioners are given a time period of **TWO (2) MONTHS** from the mail date of this decision to file an appeal brief in compliance with 37 CFR 41.37. An appeal brief in compliance with 37 CFR 41.37 must be filed within **two months** from the mailing date of this decision to avoid dismissal of the appeal by operation of 37 CFR 41.37. This time period is **not** extendable under 37 CFR 1.136 or any other provision, and petitioners should expect **no** further extension of the time period for filing an appeal brief in this application.

BACKGROUND

A non-final Office action was mailed January 23, 2008.

An amendment to the Office action was filed February 25, 2008 and supplemented on April 23, 2008.

A final Office action was mailed February 19, 2009.

A petition to the Technology Center Director was filed October 14, 2009.

A petition decision by the Technology Center Director, dismissing the October 14, 2009 petition was mailed August 13, 2010.

The instant petition to the Director was filed October 13, 2010.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. § 132(a) states:

> (a) Whenever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application; and if after receiving such notice, the applicant persists in his claim for a patent, with or without amendment, the application shall be reexamined. No amendment shall introduce new matter into the disclosure of the invention.

37 CFR 1.4(c) states:

> (c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

37 CFR 1.181 states:

> (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.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, or in the ex parte or inter partes prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.

(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.

(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

37 CFR 1.104(c) states:

(c) Rejection of claims.

(1) If the invention is not considered patentable, or not considered patentable as claimed, the claims, or those considered unpatentable will be rejected.

(2) In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

(3) In rejecting claims the examiner may rely upon admissions by the applicant, or the patent owner in a reexamination proceeding, as to any matter affecting patentability and, insofar as rejections in applications are concerned, may also rely upon facts within his or her knowledge pursuant to paragraph (d)(2) of this section.

37 CFR 1.111(b) states:

> (b) 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** (emphasis added). 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. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. 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.

37 CFR 1.113 states:

> (a) On the second or any subsequent examination or consideration by the examiner the rejection or other action may be made final, whereupon applicant's, or for ex parte reexaminations filed under § 1.510, patent owner's reply is limited to appeal in the case of rejection of any claim (§ 41.31 of this title), or to amendment as specified in § 1.114 or § 1.116. Petition may be taken to the Director in the case of objections or requirements not involved in the rejection of any claim (§ 1.181). Reply to a final rejection or action must comply with § 1.114 or paragraph (c) of this section. For final actions in an inter partes reexamination filed under § 1.913, see § 1.953.
> (b) In making such final rejection, the examiner shall repeat or state all ground of rejection then considered applicable to the claims in the application, clearly stating the reasons in support thereof.
> (c) Reply to a final rejection or action must include cancellation of, or appeal from the rejection of, each rejected claim. If any claim stands allowed, the reply to a final rejection or action must comply with any requirements or objections as to form.

37 CFR 1.136(b) states:

> (b) When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for sufficient cause and for a reasonable time specified. Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute. See § 1.304 for extensions of time to appeal to

the U.S. Court of Appeals for the Federal Circuit or to commence a civil action; § 1.550(c) for extensions of time in ex parte reexamination proceedings; § 1.956 for extensions of time in inter partes reexamination proceedings; and §§ 41.4(a) and 41.121(a)(3) of this title for extensions of time in contested cases before the Board of Patent Appeals and Interferences. Any request under this section must be accompanied by the petition fee set forth in § 1.17(g).

MPEP 710.06 states in part:

710.06 [R-6] Situations When Reply Period Is Reset or Restarted

Where the citation of a reference is incorrect or an Office action contains some other error that affects applicant's ability to reply to the Office action and this error is called to the attention of the Office within 1 month of the mail date of the action, the Office will restart the previously set period for reply to run from the date the error is corrected, if requested to do so by applicant. If the error is brought to the attention of the Office within the period for reply set in the Office action but more than 1 month after the date of the Office action, the Office will set a new period for reply, if requested to do so by the applicant, to substantially equal the time remaining in the reply period. For example, if the error is brought to the attention of the Office 5 weeks after mailing the action, then the Office would set a new 2-month period for reply. The new period for reply must be at least 1 month and would run from the date the error is corrected. See MPEP § 707.05(g) for the manner of correcting the record where there has been an erroneous citation.

Where for any reason it becomes necessary to remail any action (MPEP § 707.13), the action should be correspondingly redated, as it is the remailing date that establishes the beginning of the period for reply. For Image File Wrapper (IFW) processing, see IFW Manual.

A supplementary action after a rejection explaining the references more explicitly or giving the reasons more fully, even though no further references are cited, establishes a new date from which the statutory period runs.

If the error in citation or other defective Office action is called to the attention of the Office after the expiration of the period for reply, the period will not be restarted and any appropriate extension fee will be required to render a reply timely. The Office letter correcting the error will note that the time period for reply remains as set forth in the previous Office action.

DECISION

Introduction

At the outset, it is noted that the instant petition is captioned "PETITION TO INVOKE SUPERVISORY AUTHORITY OF THE DIRECTOR AND PETITION FOR RULE MAKING." To the extent that the petition is concerned with invocation of the Director's supervisory authority with regard to issues involving application number 10/113,841, it is treated herein as a petition under 37 CFR 1.181(a)(3) to review the decision of the Technology Center Director dated August 13, 2010. However, insofar as the petition is a "petition for rule making," the Director denies the petition without prejudice to refiling as a separate petition. Ex parte prosecution of particular patent application is not the appropriate venue for a broad discussion of the rule making rights and duties of the Office.

A number of petitioners' requests for relief concern Office-wide examiner guidance and/or rule making policy,[1] which are separate issues from any particular alleged error in the instant case. Because neither future examiner guidance nor rule making constitutes relief that can be granted directly **in this application**, neither is an appropriate subject for a petition invoking the Director's supervisory authority to review the decision of the Technology Center Director under 37 CFR 1.181(a)(3). Furthermore, 37 CFR 1.4(c) states:

> (c) Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

Insofar as the requests for relief rest on questions of Office compliance with administrative law and the President's Bulletin for Agency Guidance Practices, these matters suggest purely generalized prospective action rather than action on this immediate case. Thus the petition of October 13, 2010 fails to comply with the "separate paper" requirement of 37 CFR 1.4(c), and is improper. To the extent that petitioners' allegations of error and requests for relief concern issues raised in the prosecution of the instant application, they will be addressed herein. To the extent petitioners' request for relief suggests generalized prospective rule making and guidance changes the Office may take, petitioners' request is considered a petition for rule making and

---

[1] The following non-case-specific requests for relief made in the petition of October 13, 2010 are not treated on their merits herein: Page 3: "The PTO should implement the President's Bulletin for Agency Guidance Practices. As one part of this implementation, examiners and SPE's should be instructed that they do not have the authority to grant themselves waivers from MPEP requirements – waivers can only be obtained through procedures that the PTO will establish in its implementation of the Good Guidance Bulletin." Page 3: "The Director should add guidance to the MPEP instructing examiners that they are required to consider claims limitation-by-limitation." Page 3: "Petitions decision-makers should be instructed that they do not have the authority in deciding petitions to overrule or ignore precedential decisions of the Director, the Board on questions of the Board's jurisdiction, the United States Supreme Court on issues of law, the Executive Office of the President, regulations issued by the Executive for governing conduct of executive branch employees, or administrative law statutes and OMB regulations." Page 4: "Petitions decision-makers should be instructed that they do not have the authority to redefine issues presented on petition." Page 10: "Petition for rule making: the Director should issue formal guidance to ensure that future Actions address all claim limitations."

denied without prejudice for failing to file the requests as a separate petition. This denial without prejudice of your petition for rule making and generalized suggestions for Office practice is not a decision on the merits and is not a final agency action. *See* MPEP § 1002.02.

The petition addressed herein requests review of the Technology Center Director's decision of August 13, 2010 which determined that the Office action of February 19, 2009 was properly designated as a final Office action. Petitioners' arguments and allegations of error[2] in the Technology Center Director's Decision of October 14, 2009 are addressed in section I. Various modes of relief are requested in the petition. The requests for relief are addressed in section II.

I. The Finality of the Office Action Mailed on February 19, 2009

Four papers are central to the issue of proper finality: the non-final rejection of January 23, 2008; the replies filed February 25, 2008 and April 23, 2008; and the final rejection mailed February 19, 2009.

The non-final rejection included the following:

> a rejection under 35 U.S.C. § 101 of claims 70-125, 140-149 and 157-174;
>
> a rejection under 35 U.S.C. § 112 of claims 1-64, 70-133 and 139-174;
>
> a rejection under 35 U.S.C. § 102(e) of claims 1-5, 7-11, 13-15, 17, 33-35, 57-64, 70-74, 84, 86, 90 and 126-133 as anticipated by Waelbroeck 2002/0010672 (Waelbroeck); and
>
> a rejection of claims 6, 16, 18-32, 36-56, 75-83, 85, 87-89, 91-125 and 139-174 under 35 U.S.C. § 102(e) or in the alternative under 35 U.S.C. § 103(a) as anticipated or obvious over Waelbroeck.

In response to this non-final rejection, petitioners filed on February 25, 2008 a reply titled REQUEST FOR COMPLETION OF OFFICE ACTION PURSUANT TO MPEP § 710.06 AND REQUEST FOR RECONSIDERATION OF THE ISSUE OF PREMATURE FINAL REJECTION (Request). On April 23, 2008, petitioners filed a SUPPLEMENTAL AMENDMENT (Amendment).

The Request raised the issue of premature finality of a previous final Office action mailed April 11, 2007 and requested remailing of an action under MPEP 710.06. The examiner responded to both these issues in the Response to Arguments portion of the final Office action mailed February 19, 2009.

---

[2] The absence of a discussion of a contention or allegation by petitioners should **not** be taken as agreement with petitioners as to the contention or allegation.

The Amendment of April 23, 2008 included, again, a request for reconsideration of the finality of the final Office action mailed April 11, 2007 and for remailing of an action under MPEP 710.06. The examiner responded to both these issues in the final Office action of February 19, 2009. The Amendment contains at item 12 on page 5 a discussion of the term "penalty" and this appears to be an argument by applicant that the reference does not meet this limitation, although applicant does not specifically indicate what claim(s) might have this term. The Amendment further included amendments to various claims. However, this Amendment contained no remarks in regard to the amended claim language and how such changes to the claims render the claims patentable over the applied references as required under 37 CFR 1.111(b).

In response to the Request and Amendment, the examiner mailed a final Office action on February 19, 2009. This final Office action included the following:

> a rejection under 35 U.S.C. § 112 of claims 1-10, 13-64, 70-133 and 139-174;
>
> a rejection under 35 U.S.C. § 102(e) of claims 1-5, 7-10, 13-15, 17, 33-35, 57-64, 70-74, 84, 86, 90 and 126-133 as anticipated by Waelbroeck; and
>
> a rejection of claims 6, 16, 18-32, 36-56, 75-83, 85, 87-89, 91-125 and 139-174 under 35 U.S.C. § 102(e) or in the alternative under 35 U.S.C. § 103(a) as anticipated or obvious over Waelbroeck.

Petitioners argue that "[t]he August 2010 Decision misstates the law by excusing the Examiner from considering the claim language in a final action." (page 7)

Petitioners argue that appeal to the Board is foreclosed because the Technology Center Director did not require the examiner to consider the claim language before issuing the final Office action of February 19, 2009. According to petitioners at page 9:

> The Examiner's failure to engage with the claim language deprives applicant of any remedy at the Board. If the T.C. Director will not compel the Examiner to put the application in condition for appeal, this petitioners – as so many appellants before – is just dead stuck.

Petitioners' assessment is incorrect. The Technology Center Director properly considered the issue of the Examiner's treatment of the claim limitations in view of the applied prior art. The Technology Center Director determined that the requirements of 37 CFR 1.104(c)(2) regarding explanation of the pertinence of a reference that forms the basis of a prior art rejection had been met. This is consistent with the requirement of 35 U.S.C. § 132(a) for a statement of reasons for a rejection such that applicant may judge "the propriety of continuing the prosecution of his application." The Technology Center Director did not misstate the law, but instead properly determined that no return of the application to the Examiner was warranted.

Furthermore, it is not a requirement of the law that a rejection under 35 U.S.C. § 132(a) specify each and every feature of the claimed invention and where it can be found in the applied reference. As noted by the U.S. Court of Appeals for the Federal Circuit (Federal Circuit) in response to an applicant's argument[3] that the procedural requirements for a *prima facie* case of obviousness had not been met because the examiner had failed to provide an

> [o]n-the-record showing of a reasonable, broadest reasonable claim construction and . . . a record showing that there is evidence bridging the facial differences between that reasonable claim construction and the purported anticipatory reference . . . ,

the Federal Circuit pointedly disagreed, stating that there is no requirement for such an explicit showing under 35 U.S.C. § 132(a):

> There has never been a requirement for an examiner to make an on-the-record claim construction of every term in every rejected claim and to explain every possible difference between the prior art and the claimed invention in order to make out a prima facie rejection. This court declines to create such a burdensome and unnecessary requirement. . . . [A]ll that is required of the office to meet its prima facie burden of production is to set forth the statutory basis of the rejection and the reference or references relied upon in a sufficiently articulate and informative manner as to meet the notice requirement of § 132. As the statute itself instructs, the examiner must "notify the applicant," "stating the reasons for such rejection," "together with such information and references as may be useful in judging the propriety of continuing prosecution of his application."

See In re Jung, 637 F.3d 1356, 1363 (Fed. Cir. 2011).

The Federal Circuit's decision in *Jung* follows its earlier consideration of the requirements of § 132 in *Chester v. Miller*, 906 F.2d 1574 (Fed. Cir. 1990). In the context of an anticipation rejection, the *Chester* court noted that "[s]ection 132 is violated when a rejection is so uninformative that it prevents the applicant from recognizing and seeking to counter the grounds for rejection." *Id.* at 1578 (citing *In re Wilke*, 314 F.2d 558, 562 (CCPA 1963)). As explained in the previous decision, in this case the examiner specifically explained which portions of references applied were relevant to which claims. Thus the grounds of rejection were made clear and the requirements of § 132 were met.

If it is petitioners' contention that the examiner failed to establish a *prima facie* case as to any ground of rejection, then such argument would be the basis for an appeal and not a petition to the Director. Contrary to petitioners' contention that the Technology Center Director's decision mailed August 13, 2010 did not provide reasoning for her decision, the Technology Center Director specifically stated in her decision (page 7) the following:

---

[3] During oral argument (at 8:15-8:50).

> In the instant application, the examiner maintained the same statutory basis of rejection and relied upon the same references. The final Office action merely elaborated on the rejections in response to the applicants' arguments, and thus it did not change the basic thrust of the rejections. Accordingly, the final Office action did not introduce any new grounds of rejection within the meaning of MPEP 706.07(a).

With regard to the rejections for obviousness, petitioners' attention is drawn to the Supreme Court's decision in *Dann v. Johnston*, 425 U.S. 219 (1976). The Court in that case cautioned against an unwarranted attempt to focus on an element-by-element comparison of the claimed invention to the prior art. To the contrary, the Court reaffirmed that a proper obviousness analysis views the claimed subject matter (that is, the invention as a whole) from the vantage point of a person of ordinary skill in the art. The Court stated:

> [I]t must be remembered that the "obviousness" test of § 103 is not one which turns on whether an invention is equivalent to some element in the prior art but rather whether the difference between the prior art and the subject matter in question "is a different sufficient to render the claimed subject matter unobvious to one skilled in the applicable art. . . ."

Id. at 228 (quoting *In re Johnston*, 502 F.2d 765, 771 (CCPA 1974), Markey, C. J., dissenting).

Contrary to petitioners' statement quoted above, they are not "stuck." Appeal to the Board under 35 U.S.C. § 134 remains an avenue open to the applicant in this case. If the applicant believes that the rejection over the Waelbroeck reference is untenable because the examiner has failed to make out a proper *prima facie* case, appeal to the Board is an appropriate next step. At page 9 of the Decision of August 13, 2010, the Technology Center Director reminded petitioners of this procedure, and also appropriately cautioned that "arguments drawn to the merits of a rejection" are not petitionable under 37 CFR 1.181. The Board decisions noted at pages 8-9 of the Petition of October 13, 2010 do not dictate a different conclusion. While those decisions may involve failure of an examiner to provide a sufficiently detailed explanation of a rejection such that the Board cannot render a decision on the basis of the merits of the rejection, they do not result in the Board refusing to take action in the case. For example, *Ex parte Forest*, quoted on page 8 of the Petition of October 13, 2010, resulted not in dismissal of the appeal, but rather in vacatur of the examiner's rejection. Contrary to petitioners' apparent view of the case, Forest was not denied relief simply because the examiner's rejection was inadequate. Rather, because the Board could not evaluate the rejection on its merits, it granted relief by means of the procedural tool of vacatur. In this case, even if petitioners were correct about the alleged deficiency of the Examiner's rejections, he would not be left without an avenue for redress.

37 CFR 1.181 makes clear that matters subject to appeal to the Board are not petitionable. Issues related to the merits of a patentability rejection are appealable to the Board rather than petitionable to the Director. *See* 35 U.S.C. § 134 and MPEP §§ 706.01 and 1201. The issue of whether a rejection made by the examiner sets forth a *prima facie* case of obviousness and the issue of whether the examiner sets forth sufficient reasoning to support an obviousness rejection

are directed to the merits of the examiner's rejection, which have been held to be appealable matters rather than petitionable matters. See, for example, *Boundy v. U.S. Patent & Trademark Office*, 73 USPQ2d, 1471 (E.D. Va. 2004). It is well settled that the Director will not, on petition, usurp the functions or impinge upon the jurisdiction of the Board. See, for example, *In re Dickinson*, 299 F.2d 954, 958 (CCPA 1962); *Bayley's Restaurant v. Bailey's of Boston, Inc.*, 170 USPQ 43, 44 (Comm'r Pat. 1971); and *In re Oku*, 25 USPQ2d 1155, 1157 (Comm'r Pat. 1992). Furthermore, if such a review is permitted pursuant to a petition under 37 CFR 1.181 for withdrawal of the finality of an Office action, petitioners would be permitted to seek review of a non-final Office action from the Director and courts as a petitionable matter, which would be contrary to the legal precedents. Individual examiners' actions are not final actions subject to review as a final agency action under the Administrative Procedure Act, 5 U.S.C. 701-06. *Boundy*, 73 USPQ2d at 1471.

In summary, the examiner issued a non-final Office action, and petitioners elected to respond by arguing the merits of a previous Office action and requesting a remailing of the non-final Office based on alleged incompleteness of the action. However, no specifics of incompleteness were presented. Petitioners then filed an amendment to the claims but did not properly argue the rejections of record as required under 37 CFR 1.111(b). The examiner properly repeated the art-based rejections with comments as the examiner felt necessary given the minimal arguments presented by petitioners. In view of the above, the Technology Center Director's decision that: (1) the requirements for making the Office action final under 37 CFR 1.113 were met; and (2) there is no need for a supplementary action explaining the references more explicitly or giving the reasons more fully, was not in error.

Petitioners argue that "[t]he August 2010 Decision erred in failing to provide a written decision." (pages 12 and 26)

Petitioners argue that the failure of the Technology Center Director to address with specificity each and every issue raised in the Petition amounts to a lack of "reasoned decision making" as required, for example, by the Supreme Court in *Motor Vehicles Mfrs. Ass'n v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29 (1983). In support of his contention, petitioners cite a statement on page 9 of the August 13, 2010 decision of the Technology Center Director: "Finally, it should be noted that all issues raised by Petitioner in the petitions filed on October 14, 2009 and March 19, 2010 have been considered. Issues not specifically addressed in the instant decision, while considered, neither address the merits nor change my decision."

Under the Administrative Procedure Act (APA), an agency action denying a petition must be accompanied by a "brief statement of the grounds for denial." 5 U.S.C. § 555(e). *See also I.C.C. v. Brotherhood of Locomotive Engineers*, 482 U.S. 270, 283-84 (1987). Here, the Technology Center Directors denied the petition by stating that the issues not specifically addressed in the decision had been considered but did not "address the merits." Accordingly, the denial was accompanied by a "brief statement of the grounds of denial' and satisfied the requirements of § 555(e). Moreover, even if the Technology Center Director's denial could be read as violative

of the APA, additional reasoning based on *Jung* has been included in the instant decision. Thus, petitioners have been provided with a reasoned decision in accordance with the law.

In addition, 37 CFR 1.181 provides for review of actions or requirements of an examiner in the *ex parte* prosecution of an application, and is not a forum for general complaints about USPTO practices or procedures. Accordingly, the Technology Center Director's decision addressed all the relevant issues related to actions taken or requirements made in the instant application that were presented in the petition under 37 CFR 1.181 filed on October 14, 2009, and is thus in compliance with 5 U.S.C. § 555(e).

Furthermore, petitioners' claim that the August 2010 decision "depart[ed] from 'matter presented' too widely to constitute a sustainable decision under 5 U.S.C. § 555(b)," (page 26), misconstrues § 555(b). 5 U.S.C. § 555(b) relates solely to an applicant's right to counsel in agency proceedings. Section 555(b) provides that "[a] person compelled to appear in person before an agency . . . is entitled to be accompanied, represented, and advised by counsel . . . . With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a *matter presented* to it." (emphasis added to indicate the only use of the phrase petitioners quoted in the cited section). Petitioners were entitled to, and in fact were, represented by counsel throughout the proceeding, thus the Office's actions and decisions have complied with § 555(b). Moreover, nothing in § 555(b) suggests any limitation on the permissible scope of an agency's decision such that an agency could "depart[] from the 'matter presented' too widely to constitute a sustainable decision under 5 U.S.C. § 555(b)." But, even if § 555(b) could be read to constrain the permissible scope of an agency's decision, both the examiner's and the Technology Center Director's decisions related solely to the patentability of petitioners' claims, which clearly was the "matter presented" to the Office. Accordingly, petitioners' argument under § 555(b) is without merit.

Petitioners argue that "[t]he August 2010 Decision erred by setting a § 1.136(b) extension period other than that requested with no explanation whatsoever." (page 14)

On August 13, 2010, the Technology Center Director granted petitioners' request for an extension of time by stating, "The petition under 37 CFR 1.136(b), requesting extensions of time for filing an appeal brief, is **GRANTED** to the extent that a one-month time period is provided for applicants to file an appeal brief in compliance with 37 CFR 41.37." (page 1). Petitioners argue that the Technology Center Director's decision fails to comply with 5 U.S.C. § 555(e) because it provides no reasoning in support of the decision to grant a one-month extension under 37 CFR 1.136(b) to file an appeal brief, rather than a two-month extension as had been requested. Under 5 U.S.C. § 555(e), "a brief statement of the grounds *for denial*" (emphasis added) of a petition is required unless "the denial is self-explanatory." Petitioners' request for an extension of time was granted the Technology Center Director, and petitioners were allowed a one-month extension. Because petitioners' request was not denied, the APA does not require any explanation of the decision.

Nevertheless, to reduce the issues of disagreement, this decision **grants** the request for an extension of time to the extent petitioners are given a time period of **TWO (2) MONTHS** from the mail date of this decision to file an appeal brief in compliance with 37 CFR 41.37. Thus, an appeal brief in compliance with 37 CFR 41.37 must be filed within **two months** from the mailing date of this decision to avoid dismissal of the appeal by operation of 37 CFR 41.37. This time period is **not** extendable under 37 CFR 1.136 or any other provision.

Petitioners should expect **no** further extensions of the time period for filing an appeal brief in compliance with 37 CFR 41.37, even if petitioners seek to file additional submissions continuing to contest the matters that have been finally decided in this decision, or any other matter. Specifically, it is brought to petitioners' attention that "[t]he 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." See 37 CFR 1.181(f). Thus, the failure to file an appeal brief in compliance with 37 CFR 41.37 within **two (2) months** from the mailing date of this decision will result in the dismissal of the appeal by operation of 37 CFR 41.37, regardless of what additional submissions are filed in this application.

Petitioners argue that "[t]he August 2010 Decision erred by failing to address Supreme Court authority on the consequences of the PTO's invocation of mootness." (page 14)

Petitioners correctly note that the examiner stated at page 18 of the Office action of February 19, 2009 that "any arguments with respect to the premature nature of said Final Office action are moot." Inexplicably, petitioners then cite *County of Los Angeles v. Davis*, 440 U.S. 625 (1979) – a case involving alleged racial bias in hiring of firefighters – in an attempt to support the view that the examiner's assertion of mootness carries with it an assurance that any conduct alleged by petitioners to be wrongful will not recur, and that any effects of such conduct will be eradicated.

The point being made by the examiner was that because the request for continued examination of October 11, 2007 complied with 37 CFR 1.114(d) and 1.17(e) and was therefore granted, finality of the April 1, 2007 Office action had been withdrawn and the application, at that time, was not under final rejection. See page 18 of the Office action of February 19, 2009. Because the application was not, at that time, under final rejection, the examiner correctly noted that any argument about premature finality was moot. The examiner's usage of the term "moot" would appear to be in accordance with current understanding of the term as defined in Black's Law Dictionary, 8th ed., Thomson-West 2004, page 1029: "Having no practical significance; hypothetical or academic." Because the arguments had no bearing on the case at that time, the examiner properly declined to address them. The question of finality of the April 1, 2007 Office action is not at issue here.

The *County of Los Angeles* case concluded that there was no longer a case or controversy between the parties sufficient to confer jurisdiction on the federal court because the issue in question – possible discriminatory effects of hiring practices for firefighters – had become moot. The case is completely irrelevant to the issue at hand because the USPTO is not a federal court and does not depend on notions of jurisdiction applicable to federal courts for its authority.

Therefore, the Technology Center Director did not err by failing to address petitioners' arguments based on this case.

Petitioners argue that the Office improperly refused to enter the August 2009 amendment because "under the Paperwork Reduction Act, the PTO lacks authority to foreclose submission of the amendment of August 2009." (page 19)

Petitioners' argument is that under 44 U.S.C.§ 3512 and 5 CFR 1320.6, 37 CFR 1.113 and 1.116 cannot be enforced because petitioners allege that the Office did not implement 37 CFR 1.113 and 1.116 in accordance with the Paperwork Reduction Act [PRA].

Firstly, the Office complies with the PRA. 37 CFR 1.116 addresses amendments to the patent application filed after a final Office action. These amendments are collected pursuant to the Information Collection Request governed by OMB Control Number 0651-0031, Patent Processing. 37 CFR 1.113 merely explicates which Office actions are final Office actions. The Office does not receive anything, information or otherwise, via 37 CFR 1.113. Thus, the PRA has no impact on 37 CFR 1.113. Accordingly, the Office has fully complied with the PRA in implementing 37 CFR 1.113 and 1.116, and the Technology Center Director's decision cannot be overturned on this basis.

Secondly, petitioners misunderstands the PRA. The PRA provides that "no person shall be subject to any penalty for failing to comply with a collection of information that is subject to the requirements of [the PRA] if . . . [t]he collection of information does not display, in accordance with § 1320.3(f) and § 1320.5(b)(1), a currently valid OMB control number assigned by the Director in accordance with the Act . . . ." 5 CFR 1320.6(a)(1). Although in an effort to provide the greatest transparency to the public, the Office has obtained an OMB control number (Number 0651-0031) for amendments after final Office actions, neither 37 CFR 1.113 nor 1.116 collects information as defined in the PRA. The PRA defines a "collection of information" to be "the obtaining, causing to be obtained, soliciting, or requiring the disclosure to an agency, third parties or the public of information by or for an agency by means of identical questions posted to, or identical reporting, recordkeeping, or disclosure requirements imposed upon, ten or more persons . . . ." 5 CFR 1320.3(c). But, the PRA then explains that "[i]nformation does not include items in the following categories [:] . . . Facts or opinions obtained or solicited through nonstandardized follow-up questions designed to clarify responses to approved collections of information[.]" 5 CFR 1320.3(h)(9). Amendments pursuant to 37 CFR 1.116 allow applicants to provide "[f]acts or opinions" that "follow-up" the examiner's "nonstandardized" rejections of claims in the application, and the claims in the application are collected pursuant to OMB Collection Number 0651-0032, Initial Patent Applications. Thus, the amendments collected pursuant to 37 CFR 1.116 do not collect "information" under the PRA. Additionally, as previously noted, nothing is collected under 37 CFR 1.113, and thus it is not subject to the PRA. Accordingly, petitioners' amendment after final is not subject to the PRA and petitioners' argument does not provide a basis for overturning the Technology Center Director's decision.

Thirdly, even if 37 CFR 1.113 and 1.116 could be characterized as subject to the PRA and even if the USPTO had not obtained an OMB control number for the collection (which it has), petitioners have not been "subject to any penalty for failing to comply with a collection of information[.]" *See* 5 CFR 1320.6(a)(1). Petitioners' claims have been rejected because they do not appear to meet the conditions for patentability set forth 35 U.S.C. §§ 102, 103, and 112 for the reasons outlined in the final rejection of February 19, 2009, and not because petitioners failed to respond to an information collection requirement. Accordingly, the public protection provisions of the PRA are not a defense to the rejection of pending claims of petitioners' application.

Petitioners argue that "[t]he August 2010 Decision erred in its jurisdictional analysis by failing to 'carefully observe' the issue presented and applicable law," "because it misstates the issue presented," and "because it departs from the applicable agency regulation, and ignores applicable agency precedent." (page 21)

Petitioners cite MPEP 1201 concerning the differences between appealable and petitionable decisions, and argues that the distinction was not "carefully observed." Petitioners attempt to draw a fine line between the issue of the teachings of the Waelbroeck reference *per se* and the examiner's allegedly deficient explanation of how the teachings of the Waelbroeck reference apply to the claims. Petitioners' position appears to be that because the content of the reference is not at issue, the matter is petitionable.

Petitioners correctly state that under 37 CFR 1.181(a)(1), an examiner's action that is not appealable is petitionable. As explained above, the question presented in this case is appealable, and thus not petitionable. As petitioners have pointed out, the Board might possibly conclude on appeal that the case cannot be decided on the basis of the merits of the rejection. In such a situation, the Board may choose to vacate the examiner's action and remand. This outcome would not mean that the case was not appealable, but only that the Board decided the matter on procedural grounds. The Technology Center Director's decision of August 13, 2010 did not fail to distinguish petitionable from appealable matters.

It is agreed that the content of the reference is not under discussion here. However, it does not follow that the matter is therefore petitionable. A question about the examiner's alleged failure to provide an explanation of a rejection that amounts to a proper *prima facie* case is a question about the merits of the rejection: Did the examiner, by a preponderance of the evidence, establish that the claim was unpatentable over the reference applied? Such a question is properly addressed by the Board. The characterization of the issue in Technology Center Director's decision of August 13, 2010 did not result in an erroneous conclusion.

Petitioners argue that "[t]he August 2010 Decision erred by reframing the issues presented, and instead relying on non sequiturs." (page 25)

At issue is the examiner's alleged failure to address the term "penalty." As discussed above, the Technology Center Director's decision of August 13, 2010 carefully reviewed the prosecution history and properly concluded that the examiner complied with applicable laws and regulations. Such a thorough treatment does not constitute "reframing the issues" or "relying on non sequiturs." An alleged failure to address, in a detailed and explicit manner, how every claim limitation is met by the prior art applied, does not compel the conclusion that the examiner has failed to do his job properly, even if the allegation is true. As recently stated in *Jung*, "[t]here has never been a requirement for an examiner to make an on-the-record claim construction of every term in every rejected claim and to explain every possible difference between the prior art and the claimed invention in order to make out a prima facie rejection." *Jung*, 637 F.3d at 1363.

Petitioners argue that "[t]he August 2010 Decision errs in defining 'error.' " (page 26)

Petitioners cite the Technology Center Director's statement in the decision of August 13, 2010 at page 8 that Petitioner had provided "no showing in support of an error in the non-final Office action" of January 23, 2008. To the extent that petitioners' allegation can be understood, it appears that petitioners are arguing that the Technology Center Director misunderstands what is meant by "error" in this context. Contrary to petitioners' assertion, it does not appear that the Decision attempts to define "error" at all.

The Technology Center Director references 37 CFR 1.111(b) in the paragraph immediately preceding the quoted passage. That regulation requires an applicant who wishes to have an Office action reconsidered to submit a reply that "distinctly and specifically points out the supposed errors in the examiner's action" and that replies "to every ground of objection and rejection in the prior Office action." The regulation further states that "[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 responses of February 25, 2008 and April 23, 2008 do indeed allege premature finality and failure to explain the pertinence of the references. However, the issue being raised by the Technology Center Director appears to have been that the regulations require more than procedural complaints and vague allegations of failure to explain a rejection. A degree of specificity that points out why the claims are patentable over the references applied is needed. Nevertheless, the Technology Center Director did not direct the examiner to hold applicant's responses to be non-compliant with 37 CFR 1.111(b). Thus it cannot be said that the Technology Center Director has erred in her assessment of the issue of compliance with 37 CFR 1.111(b).

Petitioners argue that "[t]he August 2009 [sic, 2010] Decision errs in its consideration of the MPEP § 710.06 issue." (page 27)

Petitioners allege that certain Office actions were so unclear as to have affected the applicant's ability to reply. Thus, petitioners assert that the Technology Center Director erred in her conclusion that remailing a new action under the provisions of MPEP 710.06 was not warranted.

Petitioners have failed to provide evidence or reasons why any Office action in this case was so defective as to affect applicant's ability to reply. A mere allegation of error or simple request for a new action is insufficient. As pointed out by the Technology Center Director, the fact that applicant has been able to submit responses to every Office action provides ample evidence that any lack in the various Office actions was not so great as to affect applicant's ability to reply. No error is seen in the Technology Center Director's consideration of the MPEP § 710.06 issue regarding remailing of Office actions.

II. Response to Petitioners' Requests for Relief

1. Premature finality of the action of February 19, 2009 should be vacated.

For the reasons presented in section I above, the February 19, 2009 Office action was properly designated as a final Office action. Accordingly, the relief requested is **denied**, and the action will not be vacated.

2. The amendment of July 28, 2009 was a proper reply to the Office action of February 19, 2009 and is sufficient to toll any further need for extension of time.

This request for relief is predicated on the view that the Office action of February 19, 2009 was not properly made final. As noted above, the finality of the February 19, 2009 Office action, was proper. Therefore the amendment filed July 28, 2009 is an amendment filed after final rejection, and its entry is governed by 37 CFR 1.116. As noted in the advisory action mailed August 14, 2009, this amendment did not place the application in condition for allowance and was thus not a proper response to the final Office action. The period for response to the final Office action continued to run from the date of the final Office action.

3. The amendment of August 19, 2009 should be entered, either as a supplemental reply or pursuant to 5 CFR 1320.6.

This amendment of August 19, 2009 is an amendment after final rejection and thus its entry is subject to the conditions of 37 CFR 1.116.[4] 37 CFR 1.116 is specific as to the conditions that must be met for an amendment after final rejection to be entitled to entry, and the amendment of

[4] While the amendment of August 19, 2009 is not a supplement to a reply under 37 CFR 1.111, it does not in any event meet the conditions of 37 CFR 1.111(a)(2) to be entered as a matter of right.

August 19, 2009 does not meet the conditions for entry specified in 37 CFR 1.116. An Advisory Action mailed September 11, 2009 noted this amendment did not place the application in condition for allowance.

For the reasons outlined on page 14 above, nothing in 5 CFR 1320.6 requires the Office to enter petitioners' amendment after final rejection because: (1) the Office complied with the PRA and collects amendments such as this one under OMB Control Number 0651-0031; (2) 37 CRFR 1.113 and 1.116 are not collections of "information" as defined by the PRA; and (3) the claims of petitioners' application was rejected for the reasons explained in the examiner's final rejection and the Technology Center Director's denial of reconsideration, not for any failure of the petitioners to submit information in accordance with an unapproved collection of information.

4. Any fee charged for the Notice of Appeal of August 19, 2009 was charged by mistake.

Since the claims of this application were twice rejected, the Notice of Appeal filed on August 19, 2009 was a proper response under 37 CFR 1.113 to the Office action of February 19, 2009. Insofar as petitioners argue that the Notice of Appeal of August 19, 2009 was "conditional," note MPEP 714.13 II:

> The U.S. Patent and Trademark Office does not recognize "conditional" authorizations to charge an appeal fee if an amendment submitted after a final Office action is not entered. Any "conditional" authorization to charge an appeal fee set forth in 37 CFR 1.17(b) will be treated as an unconditional payment of the fee set forth in 37 CFR 1.17(b).

An appeal fee is required by law upon filing a notice of appeal. *See* 35 U.S.C. § 41(a)(6)(A). Accordingly, the appeal fee was not paid by mistake or in excess within the meaning of 35 U.S.C. § 42(d) and 37 CFR 1.26, and thus will not be refunded. *See Meissner v. United States*, 228 F.2d 643 (D.C. Cir. 1955).

5. The examiner's assertion of mootness of finality is irrevocable, the PTO is bound to "eradicate all effects" of previous premature assertions of finality, and to "cease all offending conduct" going forward.

As explained above, the examiner's use of the term "moot" was in reference to applicant's argument of premature finality at a stage in prosecution when the case was no longer under final rejection. There was no assertion "of mootness of finality" as here alleged by petitioners. There is not seen to be any basis for relief associated with the issue of "mootness." Petitioners' request the Office "eradicate all effects" is denied.

6. To "eradicate effect" as required by the examiner's assertion of mootness, the PTO must refund the RCE fee charged October 2007 or January 2008, and set the application in a status where it continues to accrue term extensions under 35 U.S.C. § 154(b)(1)(B), without the exception of 35 U.S.C. § 154(b)(1)(B)(i).

As noted above, petitioners' "mootness" argument provides no basis for relief. To the extent that Petitioners argue that the October 11, 2007 paper was merely a conditional request for continued examination, note MPEP 706.07(h) III C:

> C. Treatment of Conditional RCE. If a submission is accompanied by a "conditional" RCE and payment of the RCE fee under 37 CFR 1.17(e) (i.e., an authorization to charge the 37 CFR 1.17(e) fee to a deposit account in the event that the submission would not otherwise be entered), the Office will treat the "conditional" RCE and payment as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed.

The question of determination of the appropriate patent term adjustment is not before the Office at this time. Any patent term adjustment under 35 U.S.C. § 154(b) will be indicated on the Notice of Allowance if the Office subsequently allows the instant application after an examination on the merits. See 37 CFR 1.705. Any request for reconsideration of the patent term adjustment indicated on any Notice of Allowance that issues in the instant application must be presented in compliance with 37 CFR 1.705(b) after the Office issues a Notice of Allowance in this application.

7. The PTO should implement the President's *Bulletin for Agency Guidance Practices.*

A significant portion of the petition addresses whether the USPTO guidance and other informational documents (*e.g.*, MPEP and memoranda to the Patent Examining Corps) complies with Executive order 12866 (Sept. 30, 1993) (Regulatory Planning and Review)[5] and the Office of Management and Budget (OMB) Bulletin on Good Guidance Practice. The USPTO fully complies with Executive Order 12866 and the Bulletin on Good Guidance Practices. Furthermore, a petition in a particular patent application is not the proper forum for requesting that the Office issue general guidance. However, it is noted that Section 11 of Executive order 12866 expressly indicates that: "[t]his Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its agencies or instrumentalities, its officers or employees, or any other person." *See Executive Order 12866 of September 30, 1993; Regulatory Planning and Review*, 58 *Fed. Reg.* 51735 (Oct. 4, 1993). The Bulletin on Good Guidance Practice is a bulletin issued by OMB in a Federal Register notice entitled *Final Bulletin for Agency Good Guidance Practices*, published at 72 *Fed. Reg.* 3432 (Jan. 25, 2007). Similar to Executive order 12866, the Final Bulletin for Agency Good Guidance Practices expressly indicates that "[t]his Bulletin is intended to improve the internal management of the Executive Branch and is not intended to, and does not, create any right or benefit,

[5] Executive order 12866 (Sept. 30, 1993) was amended by Executive order 13258 (Feb. 26, 2002), Executive order 13422 (Jan. 18, 2007), and Executive order 13497 (Jan. 30, 2009).

substantive or procedural, enforceable at law or equity, against the United States, its agencies, or other entities, its officers or employees, or any other person." *See Final Bulletin for Agency Good Guidance Practices*, 72 *Fed. Reg. at 3440*. Any person may bring issues of alleged non-compliance on the part of the USPTO with Executive order 12866 or the Final Bulletin for Agency Good Guidance Practices to the attention of the Department of Commerce or the Office of Management and Budget by sending inquiries, comments, or complaints regarding USPTO guidance documents via email sent to guidance@doc.gov with the word "GUIDANCE" in the subject heading, or by mail to:

Department of Commerce
Office of General Counsel
ATTN: Guidance Herbert C. Hoover Building
14th & Constitution Avenue, NW, Room 5876
Washington, DC 20230

Petitioners issues concerning compliance or non-compliance with Executive order 12866 or the Final Bulletin for Agency Good Guidance Practices, however, do not provide a basis for setting aside or otherwise disturbing the TC Director's decision in the above-identified application. *See, e.g., Teledyne, Inc. v. United States*, 50 Fed. Cl. 155, 190 (Fed. Cl. 2001) (plaintiff cannot rely upon an Executive Order that, by its plain terms, precludes judicial review of an agency's compliance with its directive as a basis for challenging agency action). Accordingly, no action is warranted with respect to Executive Order 12866 for this application.

8. The Director should add guidance to the MPEP instructing examiners that they are required to consider claims limitation-by-limitation.

As stated above, a petition in a particular patent application is not the proper forum for requesting that the Office issue general guidance. As noted in the Foreword to the MPEP, suggestions for improvements to the MPEP may be sent to:

Mail Stop MPEP
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Furthermore, as has already been explained, the examiner in this case acted in accordance with applicable law when providing an explanation of the rejection. Under 37 CFR 1.181, applicant may have review of actions or requirements of an examiner in the *ex parte* prosecution of an application, but 37 CFR 1.181 is not a forum for general complaints about USPTO practices or procedures. Accordingly, the Technology Center Director's decision addressed all the relevant issues related to actions taken or requirements made in the instant application that were presented in the petition under 37 CFR 1.181 filed on October 14, 2009, and is thus in compliance with 5 U.S.C. § 555(b) and (e). As to item 8, no action is warranted with respect to this case.

9. Petitions decision-makers should be instructed that they do not have the authority in deciding petitions to overrule or ignore precedential decisions of the Director, the Board on questions of the Board's jurisdiction, the United States Supreme Court on issues of law, the Executive Office of the President, regulations issued by the Executive for governing conduct of executive branch employees, or administrative law statutes and OMB regulations.

As stated above, a petition in a particular patent application is not the proper forum for requesting that the Office issue general guidance. The Office provides instruction and training for its employees concerning applicable laws and procedures. No relief on this basis is warranted.

10. Petitions decision-makers should be instructed that they do not have the authority to redefine issues presented on petition.

As stated above, a petition in a particular patent application is not the proper forum for requesting that the Office issue general guidance. Appropriate instruction is provided for Office employees. Insofar as it is necessary to construe arguments presented in a petition in order to provide an appropriate response, such interpretation is not contrary to law. No relief on this basis is warranted.

Petitioners' request for a telephone hearing to assist on issues of administrative law is appreciated but is respectfully declined.

CONCLUSION

The petition under 37 CFR 1.181(a)(3) requesting review of the Technology Center Director's decision of August 13, 2010 is **granted** to the extent that the decision has been reviewed.

For the reasons stated above, the Technology Center Director's decision of August 13, 2010 is not shown to be in error. The record establishes that the Technology Center Director had a reasonable basis to support her findings and conclusion. Additional reasoning in support of this decision is provided herein. Accordingly, the petition is **DENIED** with respect to grant of any relief. The decision of August 13, 2010 will not be disturbed. This decision is a final agency action within the meaning of 5 U.S.C. § 704 upon entry of a final decision by the Board. *See* MPEP § 1002.02(b).

The finality of the final Office action mailed on February 19, 2009 is **not** withdrawn and entry of the after final amendment filed on July 28, 2009 and August 19, 2009 is **denied**. An appeal brief in compliance with 37 CFR 41.37 must be filed within **two (2) months** from the mailing date of

this decision to avoid dismissal of the appeal by operation of 37 CFR 41.37. This time period is **not** extendable under 37 CFR 1.136 or any other provision, and petitioners should expect **no** further extensions.

Robert W. Bahr
Senior Patent Counsel
Acting Associate Commissioner for
Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 08 2011

OFFICE OF PETITIONS

In re Application of :

CURRIE, David :
Application No. 10/113,875 : DECISION ON PETITION
Filed: March 29, 2002 : TO WITHDRAW
Attorney Docket No. NA11P646/02.261.01 : 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 24, 2011.

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 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 2783

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **MCAFEE, INC**
C/O LOUIS RILEY
5000 HEADQUARTERS DRIVE
PLANO, TX 75024

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.
10/113,879	04/01/2002	Hiroya Miyazaki	100799-00062(KAM 14.726C)	8155

26304 7590 12/14/2010

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

EXAMINER	
HANSEN, COLBY M	
ART UNIT	**PAPER NUMBER**
3682	
MAIL DATE	**DELIVERY MODE**
12/14/2010	PAPER

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

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DEC 13 2010

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

Application of:	MIYAZAKI ET AL.	:	
Patent No.:	6,672,770	:	**DECISION ON**
		:	**PETITION**
Filed:	APRIL 1, 2002	:	**UNDER 37 CFR 1.324**
Application No.	10/113,879		
For:	ROLLING BEARING FOR	:	
	SUPPORTING VEHICLE	:	
	WHEEL	:	

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

The petition is **Granted**.

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

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

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

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

Summary: Petition **GRANTED**.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. **6,672,770**
PATENTED **January 6, 2004**

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

- Yoshihisa Ohnuki
- Takafumi Kuwano
- Hiroyuki Sawai

UNITED STATES PATENT AND TRADEMARK OFFICE

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

VERIZON
PATENT MANAGEMENT GROUP
1515 N. COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Application of :
Joel WALL :
Application No. 10/113,968 : DECISION ON PETITION
Filed: March 29, 2002 :
Attorney Docket No. RIC01012 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely pay the Issue and Publication fees on or before April 15, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 16, 2008.

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) (3).

A decision dismissing the previously filed petition was mailed to the Petitioner on October 2, 2008. The decision set a two-month time period for response that was extendable under the provisions of 37 CFR 1.136(a). However, petitioner's response in the form of the instant renewed petition was filed July 28, 2010, that is after the expiration of the period extendable under the provisions of 37 CFR 1.136(a). The instant renewed petition does not explain the delay in its filing. Accordingly, the Office is seeking additional information from the petitioner as to the reasons for this delay of well over 1.5 years in filing the renewed petition. 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 (3). Additionally, petitioner should note that the instant petition lacks a proper signature as the practitioner's signature thereon is not enclosed between two forward slash marks as required by 37 CFR 1.4(d)(2).

In a situation 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 1.5 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.

Accordingly, 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).

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1110 extension of time fee submitted with the petition on July 28, 2010, was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a 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
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) 272-4914.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

CC: Verizon Patent Management Group
1320 N, Courthouse Road, 9th Floor,
Arlington, VA 22201

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)
7052840	2006-05-30	10114929	2002-04-03	

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/gms/	Date (YYYY-MM-DD)	2010-12-02
Name	Gregory M. Stone	Registration Number	43165

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7052840
Issue Date: May 30,2006
Application No. 10114929
Filed: April 3,2002
Attorney Docket No. CAP372/4-001US/58000

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

This is a decision on the electronic petition, filed December 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Application of :
GARTSIDE, Paul N. et al. :
Application No. 10/115,021 : DECISION ON PETITION
Filed: April 04, 2002 : TO WITHDRAW
Attorney Docket No. **NAI1P478/02.031.01** : 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 25, 2011.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on February 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PATENT CAPITAL GROUP**
6119 MCCOMMAS BLVD
DALLAS TX 75214

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WENDEROTH, LIND & PONACK,
L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Application of :
Edwin Southern :
Application No. 10/115,077 :
Filed: April 4, 2002 : ON APPLICATION FOR
Attorney Docket No. 2003_0853 : PATENT TERM ADJUSTMENT
Title: ANALYSING POLYNUCLEOTIDE :
SEQUENCES :

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) and 37 CFR 1.705(b)," filed April 23, 2010. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected.

The application for 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 five hundred sixty-five **(565)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

On March 24, 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 8 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 contends that the reduction of 557 days pursuant to 37 CFR 1.704(c)(8) is incorrect. Applicant argues that the terminal disclaimer submitted on February 2, 2010 after the reply to the non-final Office action submitted on July 25, 2008 was at the request of the examiner. In support of applicant's argument applicant refers to the April 22, 2010 Examiner-Initiated Interview Summary which references the interview which took place on January 28, 2010. Thus, applicants argue the reduction of 557 days should be removed.

The application history has been reviewed and it has been determined that reduction of 557 days will be removed. The April 22, 2010 examiner interview summary confirms that the terminal disclaimer was requested.

Applicant's delay prior to the mailing of the Notice of Allowance is 611 (248 + 62 + 70 + 32 + 56 + 75 + 68) days. Office delay prior to the mailing of the Notice of Allowance is 1176 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 565 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

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

Application Number*: 10115077 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10115077

Application Filing Date	04/04/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1176
A Delays	1176	PTO Manual Adjustment	557
B Delays	0	Applicant Delay (APPL)	1168
C Delays	0	Total PTA (days)	565

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
127	08/28/2010		P028	Adjustment of PTA Calculation by PTO	557		0
112	03/24/2010	11/25/2008	MN/=.	Mail Notice of Allowance	484		95
111	03/19/2010		IREV	Issue Revision Completed			0
110	03/19/2010		DVER	Document Verification			0
109	03/19/2010		N/=.	Notice of Allowance Data Verification Completed			0

108	02/24/2010		P574	Paralegal TD Accepted			0
107	02/02/2010	07/25/2008	DIST	Terminal Disclaimer Filed		557	95
106	02/02/2010		DIST	Terminal Disclaimer Filed			0
105	03/13/2009		C.ADB	Correspondence Address Change			0
104	12/19/2008		EX.A	Examiner's Amendment Communication			0
103	12/19/2008		CNTA	Notice of Allowability			0
96	08/30/2008		FWDX	Date Forwarded to Examiner			0
95	07/25/2008		A...	Response after Non-Final Action			0
94	05/29/2008	01/06/2008	MCTNF	Mail Non-Final Rejection	144		89
93	05/08/2008		CTNF	Non-Final Rejection			0
90	02/21/2008		FWDX	Date Forwarded to Examiner			0
92	11/13/2007		IDSC	Information Disclosure Statement considered			0
88	11/13/2007		RCAP	Reference capture on IDS			0
87	11/13/2007	09/06/2007	M844	Information Disclosure Statement (IDS) Filed		68	89
83	11/13/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
91	11/08/2007		IDSC	Information Disclosure Statement considered			0
86	11/08/2007		RCAP	Reference capture on IDS			0
85	11/08/2007		M844	Information Disclosure Statement (IDS) Filed			0
84	11/08/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
82	11/02/2007		MPTGR	Mail-Petition Decision - Granted			0
81	11/02/2007		PTGR	Petition Decision - Granted			0
79	09/18/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
89	09/06/2007		A...	Response after Non-Final Action			0
80	09/06/2007		PET.	Petition Entered			0
77	06/15/2007		MCTNF	Mail Non-Final Rejection			0
76	06/11/2007		CTNF	Non-Final Rejection			0
74	06/01/2007		MPTDI	Mail-Petition Decision - Dismissed			0
75	05/31/2007		LET.	Miscellaneous Incoming Letter			0
73	04/06/2007		FWDX	Date Forwarded to Examiner			0
71	03/27/2007		PET.	Petition Entered			0
72	03/26/2007		A...	Response after Non-Final Action			0
78	03/08/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
70	01/18/2007	11/27/2006	MCTNF	Mail Non-Final Rejection	52		62
69	01/08/2007		CTNF	Non-Final Rejection			0
68	10/24/2006		FWDX	Date Forwarded to Examiner			0
67	10/10/2006	07/27/2006	SA..	Supplemental Response		75	62
63	08/10/2006		FWDX	Date Forwarded to Examiner			0

66	07/27/2006		IDSC	Information Disclosure Statement considered			0
65	07/27/2006		RCAP	Reference capture on IDS			0
64.7	07/27/2006		M844	Information Disclosure Statement (IDS) Filed			0
64	07/27/2006		WIDS	Information Disclosure Statement (IDS) Filed			0
62	07/27/2006	06/01/2006	A...	Response after Non-Final Action		56	58
61	07/27/2006		XT/G	Request for Extension of Time - Granted			0
59	06/29/2006		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
58	03/01/2006		MCTNF	Mail Non-Final Rejection			0
57	02/21/2006		CTNF	Non-Final Rejection			0
56	12/20/2005		IDSC	Information Disclosure Statement considered			0
53.7	12/20/2005		M844	Information Disclosure Statement (IDS) Filed			0
53	12/20/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
54	12/16/2005		IDSC	Information Disclosure Statement considered			0
51.7	12/16/2005		M844	Information Disclosure Statement (IDS) Filed			0
51	12/16/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
50	12/01/2005		FWDX	Date Forwarded to Examiner			0
48	12/01/2005		FWDX	Date Forwarded to Examiner			0
46	12/01/2005		ABN9	Disposal for a RCE / CPA / R129			0
49	11/14/2005		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
47	11/14/2005	10/13/2005	RCEX	Request for Continued Examination (RCE)		32	42
45	11/14/2005		XT/G	Request for Extension of Time - Granted			0
44	11/14/2005		BRCE	Workflow - Request for RCE - Begin			0
43	10/16/2005		DOCK	Case Docketed to Examiner in GAU			0
42	07/13/2005	03/26/2005	MCTFR	Mail Final Rejection (PTOL - 326)	109		37
41	07/11/2005		CTFR	Final Rejection			0
38	02/15/2005		FWDX	Date Forwarded to Examiner			0
40	02/04/2005		RCAP	Reference capture on IDS			0
39.7	02/04/2005	11/26/2004	M844	Information Disclosure Statement (IDS) Filed		70	37
39	02/04/2005		WIDS	Information Disclosure Statement (IDS) Filed			0
35	12/21/2004		RCAP	Reference capture on IDS			0
34.7	12/21/2004		M844	Information Disclosure Statement (IDS) Filed			0
34	12/21/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
37	11/26/2004	09/25/2004	A...	Response after Non-Final Action		62	28
36	11/26/2004		XT/G	Request for Extension of Time - Granted			0
31	11/26/2004		WAMD	Workflow incoming amendment IFW			0
30	09/15/2004		C.AD	Correspondence Address Change			0
				Change in Power of Attorney (May Include			

29	09/15/2004		PA..	Associate POA)			0
28	06/25/2004	06/04/2003	MCTNF	Mail Non-Final Rejection	387		-1
27	06/24/2004		CTNF	Non-Final Rejection			0
24	08/11/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
26	06/09/2003		A.PE	Preliminary Amendment			0
23	06/09/2003		DOCK	Case Docketed to Examiner in GAU			0
22	06/06/2003		OIPE	Application Dispatched from OIPE			0
21	05/14/2003		COMP	Application Is Now Complete			0
18	05/13/2003		CRFE	CRF Is Good Technically / Entered into Database			0
20	04/28/2003	08/23/2002	ADDFLFEE	Additional Application Filing Fees		248	4
19	04/28/2003		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
17	04/08/2003		SQPR	SEQUENCE ERRORS			0
25	12/20/2002		A.PE	Preliminary Amendment			0
15	12/20/2002		ADDFLFEE	Additional Application Filing Fees			0
8	12/20/2002		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
7	12/20/2002		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
6	12/20/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
5	12/20/2002		CORRSPEC	Applicant has submitted a new specification to correct Corrected Papers problems			0
4	05/23/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
2	04/16/2002		SCAN	IFW Scan & PACR Auto Security Review			0
1	04/04/2002		IEXX	Initial Exam Team nn			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100905

DATE : September 05, 2010

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7312235

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:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES 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.

Portola Pharmaceuticals, Inc.
c/o Foley & Lardner LLP
975 Page Mill Road
Palo Alto CA 94304

MAILED

FEB 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,312,235	:	DECISION ON REQUEST
Zhu et al.	:	FOR
Issue Date: December 25, 2007	:	RECONSIDERATION OF
Application No. 10/115,135	:	PATENT TERM ADJUSTMENT
Filed: April 1, 2002	:	
Atty Docket No. 070545-1176	:	

This is a decision on the petition filed on May 6, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand four hundred fifty (1450) days.

The request for reconsideration of patent term adjustment is **DISMISSED as untimely filed**.

The above-identified application matured into U.S. Patent No. 7,312,235 on December 25, 2007. The instant request for reconsideration of patent term adjustment was not filed until May 6, 2009, more than 16 months later.

37 CFR 1.705(d) provides that any request for reconsideration of the patent term adjustment indicated on the patent be filed within 2 months of the issue date of the patent. 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 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. 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. 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. 154(b)(4) represents the outer limit on the USPTO's ability to conclude its PTA determination.

In view thereof, it is appropriate to dismiss this request as untimely filed.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DARBY & DARBY P.C.
Post Office Box 5257
New York NY 10150-5257

MAILED

MAR 09 2012

OFFICE OF PETITIONS

In re Patent No. 7,026,570 :
Issue Date: April 11, 2006 :
Application No. 10/115,813 : REQUEST FOR :INFORMATION
Filed: March 28, 2002 :
Attorney Docket No. 2136/0K349 :

This request for information is mailed in response to the petition under 37 CFR 1.378(b), filed January 17, 2012, to accept the delayed payment of a maintenance fee for the above-identified patent.

Please respond within TWO (2) MONTHS from the mail date of this request for information. 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.

The merits of this petition will not be addressed because the person signing the petition has not established his authority to file the petition. As stated in MPEP 2590,, "If the petition is signed by a person not registered to practice before the Office, the petition must indicate that the person signing the petition is the patentee, assignee, or other party in interest. An assignee must comply with the requirements of 37 CFR 3.73(b) which is discussed in MPEP § 324." Pursuant to 37 CFR 3.73(b), a party must be established as the assignee by satisfying the requirements of that subsection, in order to be recognized as an owner or part owner, for purposes of taking action in patent matters before the Office

Joseph M. Zanetti, Jr. is not the patentee. He has not complied with the requirements of 37 CFR 3.73(b). Therefore, Mr. Zanetti has not established he has authority to file the petition.

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 above-identified 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)

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: JOSEPH M. ZANETTI, JR.
C/O WILLIAM F. DAVIS & ASSOC, P.C.
6709 ACADEMY RD. NE, STE. A
ALBUQUERQUE NJ 87109-3323

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JAMES M. WU
JW LAW GROUP
84 W. SANTA CLARA STREET
SUITE 820
SAN JOSE, CA 95113

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of :
Sheng (Ted) Tai Tsao :
Application No. 10/116,511 : DECISION ON PETITION
Filed: April 5, 2002 : TO WITHDRAW
Attorney Docket No. 0385095-002 : 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 June 18, 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 patent in this application has already been issued.

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

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

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

cc: SHENG (TED) TAI TSAO
2979 HEIDI DRIVE
SAN JOSE, CA 95132

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-9731

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Patent No. 6,585,472 :
Issue Date: July 1, 2003 :
Application No. 10/116,663 : NOTICE
Filed: April 4, 2002 :
Attorney Docket No. 216402

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

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Kendal M. Sheets
CPA Global
2318 Mill Road, Suite 12 Floor
Alexandria, VA 22314

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)
7120641	2006-10-10	10117514	2002-04-05	103251.58980US

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

SMALL ENTITY

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

LOSS 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	/Andrew M. Riddles/	Date (YYYY-MM-DD)	2011-10-19
Name	Andrew M. Riddles	Registration Number	31657

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7120641
Issue Date: October 10,2006
Application No. 10117514
Filed: April 5,2002
Attorney Docket No. 103251.58980US

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

This is a decision on the electronic petition, filed October 19,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 19,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6967822	2005-11-22	10117518	2002-04-04	

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
◉	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	/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
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6967822
Issue Date: November 22,2005
Application No. 10117518
Filed: April 4,2002
Attorney Docket No. 139-014

:
: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

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

RICHARD A. HAASE (INVENTOR)
4402 RINGROSE DRIVE
MISSOURI CITY TX 77459

MAILED

JUN 29 2011

OFFICE OF PETITIONS

In re Application of :
Richard A. Haase, et al. :
Application No. 10/117,682 : ON PETITION
Filed: April 5, 2002 :
Attorney Docket No. 27410/19 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 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 application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 8, 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 January 9, 2010. The Notice of Abandonment was mailed April 15, 2011.

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) (3).

The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

(1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);

(2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

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

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Richard A. Haase) was ever given a power of attorney to act on behalf of inventor Audrey L. Haase, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

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

By Mail:
Mail Stop PETITION
Commissioner for Patents
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) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

RICHARD A. HAASE (INVENTOR)
4402 RINGROSE DRIVE
MISSOURI CITY TX 77459

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of	:	
Richard A. Haase, et al.	:	
Application No. 10/117,682	:	DECISION ON PETITION
Filed: April 5, 2002	:	
Attorney Docket No. 27410/19	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 12, 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, October 8, 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 January 9, 2011. The Notice of Abandonment was mailed April 15, 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.

The $120 petition fee submitted herewith is unnecessary because the $810 petition fee has been previously fee. Therefore, the $120 will be refunded via treasury check in due course.

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

This application is being referred to Technology Center AU 1778 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

FEB 14 2011

OFFICE OF PETITIONS

COZEN O'CONNOR, P.C.
1900 MARKET STREET
PHILADELPHIA PA 19103

In re Patent No. 7,812,148	:	DECISION ON REQUEST
Crombie, et al.	:	FOR
Issue Date: October 12, 2010	:	RECONSIDERATION OF
Application No. 10/117,960	:	PATENT TERM ADJUSTMENT
Filed: April 5, 2002	:	and
Atty Docket No. HARR0017-100	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 13, 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 five hundred and thirty-eight (538) 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 five hundred and twenty-nine (529) days is **GRANTED to the extent indicated herein.**

Patentees dispute the reductions of 41 days and 9 days to the patent term adjustment. Patentees maintain that the reductions were made pursuant to 37 CFR 1.704(c)(8) and are improper. It is noted, however, that the subject reductions to the patent term were entered pursuant to 37 CFR 1.704(c)(10) as these reductions were entered for filings made after the mailing of the Notice of Allowance and Issue Fee Due.

It is noted that 37 CFR 1.704(c)(10) provides that:

> 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;

Relative to the period of reduction of 9 days, it is concluded that the reduction was properly entered. The record demonstrates that an amendment under 37 CFR 1.312 was filed on August 24, 2010, to which the Office responded by a communication mailed September 1, 2010. It is noted that, unlike 37 CR 1.704(c)(8), the provisions of 37 CFR 1.704(c)(10) give no consideration for whether the filing was requested by the USPTO. Accordingly, the period of adjustment of the term of the patent was properly reduced by 9 days, beginning on the date the amendment under 37 CFR 1.312 was filed, August 24, 2010, and ending on the mailing date of the response to the amendment under 37 CFR 1.312, Sep 1, 2010. **Accordingly, the period of reduction of 9 days will not be removed.**

Relative to the period of reduction of 41 days, it is concluded that the reduction was improper. The record demonstrates that drawings were filed on August 24, 2010, and were a part of the amendment under 37 CFR 1.312 filed on that same date and requested replacement of specific drawing figures. As previously stated, a response to the amendment under 37 CFR 1.312 was mailed on September 1, 2010, wherein the Office noted that the amendment of August 24, 2010, was entered. Accordingly, the response mailed September 1, 2010, was responsive to the amendment under 37 CFR 1.312 and the drawings filed on August 24, 2010. **It is, therefore, concluded that the entry of a 41-day reduction is improper in this instance and such is being removed.**

Accordingly, the patent term adjustment is 529 days (1160 days of

A delay + 783 days of B delay - 0 days of overlap - 631 days of applicant delay).

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 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 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 **five hundred and twenty-nine (529)** 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 : 7,812,148 B2

DATED : Oct. 12, 2010

INVENTOR(S) : Crombie 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 (488) days

Delete the phrase "by 488 days" and insert – by 529 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

LAW OFFICES OF BARRY N. YOUNG
200 PAGE MILL ROAD
SUITE 102
PALO ALTO CA 94306

MAILED

AUG 19 2010

OFFICE OF PETITIONS

In re Patent No. 6,896,111	:	
Issued: May 24, 2005	:	
Application No. 10/118,041	:	ON PETITION
Filed: April 5, 2002	:	
Attorney Docket No. EPI-11	:	

This is a decision on the petition under 37 CFR 1.378(c), filed August 13, 2010 with a certificate of mailing date of July 20, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 25, 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 the undersigned at (571) 272-7751.

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

2-16-2011

Patent No. : 7,867,092 B2
Serial No. : 10/118,414
Inventor(s) : Paulsen, Craig A.
Issued : January 11, 2011

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.

Respecting the alleged error on the title page, item [65] under prior Publication Data, omitting of the priority claim, section 201.14(b) of the Manual of Patent Examining Procedures, states that if the certified copy is presented in a parent application on file in the patent and Trademark Office, it is not necessary to file an addition certified copy. However, it is clear that the Manual statement, in accordance with the statutory requirement, requires the filing of a claim of priority in the continuing application(s). Absent such a claim, statutory requirement have not been met. Therefore, no correction is in order here under rules 1.322.

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 with the sum of $100.00

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(571-272-3422 or 703-756-1580)

Stephen C. Glade
P.O. Box 70250
Oakland, CA 94612-0250

ej

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)
7,136,865	2006-11-14	10118546	2002-04-08	OIC0236C1US

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

SMALL ENTITY

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

LOSS 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	/ Sam G. Campbell III /	Date (YYYY-MM-DD)	2010-12-22
Name	Samuel G. Campbell, III	Registration Number	42381

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7136865
Issue Date: November 14,2006
Application No. 10118546
Filed: April 8,2002
Attorney Docket No. OIC0236C1US

:
: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 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 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Attn: MCMR-JA (Ms. Arwine)
Elizabeth Arwine, Esq.
US Army Medical Research & Material Command
504 Scott Street
Fort Detrick MD 21701-5012

MAILED

SEP 07 2010

OFFICE OF PETITIONS

In re Application of :
Jackson et al. :
Application No. 10/119,502 : DECISION ON PETITION
Filed: April 10, 2002 :
For. METHOD FOR TREATING AND :
PREVENTING PROTOZOAN INFECTIONS :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of February 13, 2009 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 April 14, 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 divisional application, (2) the petition fee of $1620.00; and (3) an adequate statement of unintentional delay.

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.

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.

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 divisional application No. 12/804,600.

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

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Abanti Bhattacharyya, Esq.
5575 Sterrett Place, Suite 320
Columbia, MD 20143

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)
6595284	2003-07-22	10119659	2002-04-10	

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	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	/Larry W. Miller/	Date (YYYY-MM-DD)	2011-09-22
Name	Larry W. Miller	Registration Number	29417

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6595284
Issue Date: July 22,2003
Application No. 10119659
Filed: April 10,2002
Attorney Docket No. 053459-5001US01

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

This is a decision on the electronic petition, filed September 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 September 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

In re Patent No. 6928719
Issue Date: August 16,2005
Application No. 10119708
Filed: April 11,2002
Attorney Docket No. 2336-102

:
: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.

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)
6,928,719	2005-08-16	10/119,708	2002-04-11	4859-094

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

SMALL ENTITY

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

LOSS 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	/Benjamin J. Hauptman/	Date (YYYY-MM-DD)	2010-08-27
Name	Benjamin J. Hauptman	Registration Number	29310

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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

John Wesley Davenport Sr
P.O. Box #6
WilberForce OH 45384

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Application of	:	
John Wesley Davenport Sr.	:	
Application No. 10/120246	:	DECISION
Filing or 371(c) Date: 04/11/2002	:	ON PETITION
Title of Invention:	:	
AUTOMOBILE THEATER SYSTEM	:	

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed February 24, 2011.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 26, 2003. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a one month extension of time and fee on December 18, 2003, and a reply to the Office action on January 14, 2004. However, the period for reply to the Office action expired on November 26, 2003, and with a one month extension of time, Applicant extended the period for reply to the Office action to December 27, 2003. The reply was filed after December 26, 2003, on January 14, 2004, after the application had become abandoned. No timely and proper reply having been received, the application became abandoned on December 27, 2003. A Notice of Abandonment was mailed March 19, 2004.

The present petition

Applicant files the present petition; however, the petition does not include the petition fee.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (2), Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted. The fee for a petition to revive an application based upon an unavoidable delay in responding to an Office communication is currently $255.00 for a small entity.

Unavoidable delay

Applicant is advised that the petition states that the delay in filing the required reply to the Office action was unavoidable. Petitioner is advised that the following standard is applied to petitions to revive based upon an assertion that the failure to file a complete and proper reply to an Office action was unavoidable:

In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat.

139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v.

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, **or their own**, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that the Inventor's Assistance Center is available, at 1-800-786-9199, for assistance in prosecuting the patent application.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning *this matter* should be directed to attorney Derek Woods at (571) 272-3232. All other inquiries concerning examination procedures or status of the application should be directed to the Inventor's Assistance Center or the appropriate Technology Center[3].

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTO/SB/64 Petition for Revival of an Application for Patent Abandoned Unintentionaly Under 37 CFR 1.137(b)

[3] Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See, 37 CFR 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
www.uspto.gov

John Wesley Davenport Sr
P.O. Box #6
WilberForce OH 45384

MAILED

JUL 21 2011

OFFICE OF PETITIONS

In re Application of :
John Wesley Davenport Sr. :
Application No. 10/120246 : DECISION
Filing or 371(c) Date: 04/11/2002 : ON PETITION
Title of Invention: :
AUTOMOBILE THEATER SYSTEM :

This is a decision on the petition, filed June 17 2011. The petition is properly treated as a to withdraw the holding of abandonment under 37 CFR 1.181.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers, mailed July 18, 2002. The Notice set a two (2) month period for reply. Petitioner filed a reply to the Notice on September 18, 2002. No further processing occurred in the application.

Petitioner files the present petition and requests withdrawal of the holding of abandonment.

A review of the application file reveals that petitioner filed a timely reply to the Notice to File Corrected Application Papers, mailed July 18, 2002, on September 4, 2002.

In view of the foregoing, the petition is granted.

The application file is being referred to the Office of Patent Application Processing for processing of the reply, filed September 4, 2002, and for continued processing in the normal course of business.

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

/DLW/

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES 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 Wesley Davenport Sr
P.O. Box #6
WilberForce OH 45384

MAILED

APR 21 2011

OFFICE OF PETITIONS

In re Application of	:	
John Wesley Davenport Sr.	:	
Application No. 10/120246	:	DECISION
Filing or 371(c) Date: 04/11/2002	:	ON PETITION
Title of Invention:	:	
AUTOMOBILE THEATER SYSTEM	:	

This is a decision on the "Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a)," filed February 24, 2011.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed August 26, 2003. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a).

Applicant filed a one month extension of time and fee on December 18, 2003, and a reply to the Office action on January 14, 2004. However, the period for reply to the Office action expired on November 26, 2003, and with a one month extension of time, Applicant extended the period for reply to the Office action to December 27, 2003. The reply was filed after December 26, 2003, on January 14, 2004, after the application had become abandoned. No timely and proper reply having been received, the application became abandoned on December 27, 2003. A Notice of Abandonment was mailed March 19, 2004.

The present petition

Applicant files the present petition; however, the petition does not include the petition fee.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable. The Director may require additional information where there is a question whether the delay was unintentional; and
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition fee

As to item (2), Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted. The fee for a petition to revive an application based upon an unavoidable delay in responding to an Office communication is currently $255.00 for a small entity.

Unavoidable delay

Applicant is advised that the petition states that the delay in filing the required reply to the Office action was unavoidable. Petitioner is advised that the following standard is applied to petitions to revive based upon an assertion that the failure to file a complete and proper reply to an Office action was unavoidable:

In order to determine whether the delay was unavoidable, the courts have adopted a "reasonably prudent person" standard. The courts have provided that:

> [t]he word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat.

139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

"The critical phrase 'unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable' has remained unchanged since first enacted in 1861." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The standard for "unavoidable" delay for reinstating a patent is the same as the unavoidable standard for reviving an application. See Ray v. Lehman, 55 F.3d 606, 608-609, 34 U.S.P.Q.2d (BNA) 1786, 1787 (Fed. Cir. 1995) (citing In re patent No. 4,409,763, 7 U.S.P.Q.2d (BNA) 1798, 1800 (Comm'r Pat. 1990; Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982). The court in In re Mattullath, accepted the standard which had been proposed by Commissioner Hall which "requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business." In re Mattullath, 38 App. D.C. 497, 514-515 (1912) (quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)). However, "The question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case-by-case basis, taking all of the facts and circumstances into account."[1] Nonawareness of the content of, or a misunderstanding of, PTO statutes, PTO rules, the MPEP, or Official Gazette notices, does not constitute unavoidable delay.[2]

The statute requires a "showing" by petitioner. Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. It is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Applicant is further advised that the Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992); see also Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (D.N. Ind. 1987). Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v.

---

[1] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (1982).

[2] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D. D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute "unavoidable" delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. LEXIS 23119, 13, 230 U.S.P.Q. (BNA) 621 (D. D.C. 1985) (Plaintiffs, through their counsel's actions, or their own, must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications.) (Emphasis added).

Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revive under 37 CFR 1.137(b).

Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that the Inventor's Assistance Center is available, at 1-800-786-9199, for assistance in prosecuting the patent application.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

Telephone inquiries concerning *this matter* should be directed to attorney Derek Woods at (571) 272-3232. All other inquiries concerning examination procedures or status of the application should be directed to the Inventor's Assistance Center or the appropriate Technology Center[3].

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTO/SB/64 Petition for Revival of an Application for Patent Abandoned Unintentionaly Under 37 CFR 1.137(b)

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

13 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 10500
Mclean VA 22102

In re Patent no.: 6,800,331
Issue Date: April 11, 2002
Application No. 10/120,252
Filed: April 11, 2002
Attorney Docket No. P 0291155 / FF 34674/02

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 12, 2010, seeking to correct a claim for priority by way of a Certificate of Correction to prior-filed International Patent Application PCT/AU2000/001272, filed October 19, 2000.

The petition is **DISMISSED**.

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii). Accordingly, the present application is properly considered under 37 CFR 1.78(a)(3). See MPEP section 1481.03.

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(s), 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The present petition fails to comply with item (1) above.

The reference to add the prior-filed application on the Certificate of Correction 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).

Further, applicant's statement that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(3)(iii) and the date the claim was filed by the filing of the instant petition was unintentional" is construed as meaning 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." If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration. As construed, petitioner's statement satisfied item (3) above. Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a proper amendment to correct the above matters are required.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 10500
Mclean VA 22102

MAILED

NOV 30 2010

PCT LEGAL ADMINISTRATION

In re Patent no.: 6,800,331
Issue Date: April 11, 2002
Application No. 10/120,252
Filed: April 11, 2002
Attorney Docket No. P 0291155 / FF 34674/02

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 23, 2010, seeking to correct a claim for priority by way of a Certificate of Correction to prior-filed International Patent Application PCT/AU2000/001272, filed October 19, 2000.

The petition is DISMISSED without prejudice.

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed international application is submitted after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii). Accordingly, the present application is properly considered under 37 CFR 1.78(a)(3). See MPEP section 1481.03.

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(s), 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The present petition fails to comply with item (1) above.

Applicant has submitted a revised Request for Certificate of Correction for the patent no. 6,800,331. However, applicant has not submitted an amended specification or an Application Data Sheet for nonprovisional application no. 10/120,252. 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications.

Further, applicant's statement that "the entire delay between the date the claim was due under 37 CFR 1.78(a)(3)(iii) and the date the claim was filed by the filing of the instant petition was unintentional" is construed as meaning 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." If this is incorrect, petitioner must immediately notify the Office of PCT Legal Administration. As construed, petitioner's statement satisfied item (3) above. Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and a proper amendment to correct the above matters are required.

Any questions concerning this matter may be directed to Anthony Smith at (571) 272-3298.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Pillsbury Winthrop Shaw Pittman, LLP
P.O. Box 10500
Mclean VA 22102

MAILED

JAN 04 2011

PCT LEGAL ADMINISTRATION

In re Patent no.: 6,800,331
Issue Date: April 11, 2002
Application No. 10/120,252
Filed: April 11, 2002
Attorney Docket No. P 0291155 / FF 34674/02

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 21, 2010, seeking to correct a claim for priority by way of a Certificate of Correction to prior-filed International Patent Application PCT/AU2000/001272, filed October 19, 2000.

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 international application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii).

The instant application was filed April 11, 2002. 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 international application after issuance of the application into a patent. As provided in MPEP § 1481.03, where 35 U.S.C. 120 and 365(c) priority based on an international application is to be asserted or corrected in a patent via a Certificate of Correction, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11);

(C) the patentee must submit together with the request for the certificate, copies of documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. 120 priority is appropriate (see MPEP 201.13(b) as to the requirements for 35 U.S.C. 120 priority based on an international application; and

(D) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

As the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed international application satisfies conditions (A) - (D), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Anthony Smith at (571) 272-3298.

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ———

DATE : 5/12/10

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/120252 Patent No.: 6800331 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: _____

_____

_____

_____

_____

An 1715

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8-16-11

TO SPE OF : ART UNIT 1788

SUBJECT : Request for Certificate of Correction for Appl. No.: 10120470 Patent No.: 7919176

CofC mailroom date: 8-8-11

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 – 9D40-E
Palm Location 7580

Note: _____ Omega Lewis

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved** — **All** changes apply.

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

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

Comments:_____

/Alicia Chevalier/ 9/12/11
SPE

1788
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

MCANDREWS HELD & MALLOY LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of :
Jose Roberto Alvarez :
Application No. 10/120,622 : ON REQUEST FOR
Filed: April 11, 2002 : RECONSIDERATION OF
Attorney Docket Number: 13302US01 : PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed July 29, 2010. Applicant believes that he should be accorded additional PTA of 600 days. Applicant requests this correction solely 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 solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

In view thereof, the correct determination of PTA prior to issuance is **nine hundred seventy-four (974) days** (1159 days of PTO delay, reduced by 185 days of Applicant delay).

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MCANDREWS HELD & MALLOY LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
MAR 28 2011
OFFICE OF PETITIONS

In re Patent No. 7,826,535 : DECISION ON
Alvarez, et al. : REQUEST FOR RECONSIDERATION
Application No. 10/120,622 : of PATENT TERM ADJUSTMENT
Issue Date: November 2, 2010 :
Filed: April 11, 2002 :
Attorney Docket No. 13302US01 :

This is a decision on the "APPLICATION FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) INDICATED IN THE PATENT (37 CFR § 1.705(d))", filed January 3, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from one thousand three hundred ninety-three (1393) days to one thousand five hundred seventy-four (1574) days.

The petition is **DISMISSED.**

On November 2, 2010, the instant application matured into U.S. Patent No. 7,826,535 with a patent term adjustment of 1393 days. The Office determined a patent term adjustment of 1393 days based upon 590 days of Office delay pursuant to 37 CFR 1.703(a)(1), delays of 30, 210, and 327, and 2 days pursuant to 37 CFR 1.703(a)(2), and 629 days pursuant to 37 CFR 1.703(b), reduced by four instances of Applicant delay pursuant to 37 CFR 1.704(b) of 90, 31, 2, and 62 days.

Patentees request recalculation of the patent term adjustment to include a 630 day period of adjustment pursuant to 37 C.F.R. 1.703(b). The Office maintains that 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, and the over three year period begins on April 12, 2005 and ends on June 29, 2008, the day before the RCE was filed, which, when subtracting the 546 days that the application was under appeal, amounts to 629 (not 630) days.

Patentees argue that the day on which the RCE was filed should be included in the period of "B" delay.

37 CFR 1.703(b)(1) sets forth, *in toto*:

> (b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods:
>
> (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

It follows that the proper manner of calculating the RCE-cutoff is to terminate the over three year period on the day before the RCE was filed, since 37 CFR 1.703(b)(1) expressly states that the day on which the RCE was filed is not included in the over three year period.

Accordingly, at issuance, the Office properly entered 629 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In addition, Patentees argue that the overlap between "A" and "B" delay should only be 30 days, not the 210 days as calculated by the Office. However, Patentee has not set forth the relevant dates for which this adjustment is sought, as required by 37 CFR 1.705(d). Accordingly, the Office will not revisit the matter until such time as Patentee sets forth the relevant dates.

In view thereof, the correct number of days of patent term adjustment is days (1159 days of "A"' delay, 629 days of "B" delay, reduced by 185 days of Applicant delay and 210 days of overlap between "A" and "B" delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

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.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.

Anthony Knight
Director
Office of Petitions

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6598438	2003-07-29	10120674	2002-04-11	Andy.007

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

SMALL ENTITY

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

LOSS 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	/Jason W. Bryan/	Date (YYYY-MM-DD)	2011-10-28
Name	Jason W. Bryan	Registration Number	51505

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6598438
Issue Date: July 29,2003
Application No. 10120674
Filed: April 11,2002
Attorney Docket No. 01002.00004

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

This is a decision on the electronic petition, filed October 28,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 28,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

In re Patent No. 6675775
Issue Date: January 13,2004
Application No. 10120951
Filed: April 10,2002
Attorney Docket No. 35876/202

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

This is a decision on the electronic petition, filed March 1,2012 ,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 1,2012 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6675775	2004-01-13	10120951	2002-04-10	35876/202

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

SMALL ENTITY

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

LOSS 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	/JohnARafter/	Date (YYYY-MM-DD)	2012-03-01
Name	John A. Rafter, Jr.	Registration Number	31653

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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

JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES CA 90071

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Patent No. 6,719,787 :
Issue Date: April 13, 2004 :
Application No. 10/121,208 : NOTICE
Filed: April 11, 2002 :
Attorney Docket No. 3FTHERA.2DCDC1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 22, 2011. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kyle Conklin
Sterne, Kessler, Goldstein & Fox
1100 New York Avenue NW
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 23 2010

OFFICE OF PETITIONS

THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

In re Application of	:	
Gary Mitchell Davenport et al.	:	
Application No. 10/121,325	:	DECISION ON PETITION
Filed: April 12, 2002	:	
Attorney Docket No. 1448.014US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 20, 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 non-final Office action mailed October 16, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 17, 2010. A Notice of Abandonment was mailed on May 20, 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.

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

This application is being referred to Technology Center AU 1618 for appropriate action by the Examiner in the normal course of business on the reply received July 20, 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

CHIRON CORPORATION
Intellectual Property - R440
P.O. Box 8097
Emeryville CA 94662-8097

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,534,444
Issue Date: May 19, 2009
Application No. 10/121,456
Filed: April 11, 2002
Attorney Docket No. 17782.003

DECISION ON PETITION

This is a decision on the Request For Correction Of Patent To State Name Of Assignee Under 37 CFR §3.81(b), filed August 28, 2009, which is being treated as a Petition Under 37 CFR §3.81(b) to add the second assignee's name and residence. 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 add the second assignee's name and residence on the previously submitted PTOL-85B. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the second assignee's name and residence 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 $130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), has been submitted. However, the $100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), was accompanied deposit account authorization to charge any required fees. As such, the fee has been charged as authorized. Further, Office assignment records are consistent with the requested correction. 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 the Petition.

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

Inquiries related 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. 7,534,444.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Novartis Vaccines And Diagnostics, Inc.
Corporate Intellectual Property – X100B
P.O. Box 8097
Emeryville, CA 94662-8097

UNITED STATES PATENT AND TRADEMARK OFFICE

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

SILICON LABORATORIES INC.
ATTN: LEGAL AFFAIRS
400 W. CESAR CHAVEZ
AUSTIN TX 78701

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of :
Jean-Luc Nauleau et al. :
Application No. 10/121,570 :
Filed: April 12, 2002 :
Attorney Docket No. **P1826USA** :

NOTICE

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

The Office no longer investigates or rejects original or reissue 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: **O'KEEF, EGAN, PETERMAN & ENDERS**
1101 CAPITAL OF TEXAS HIGHWAY SOUTH
BUILDING C, SUITE 200
AUSTIN TX 78746

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)
7227929	2007-06-05	10121626	2002-04-11	

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	//fmd//	Date (YYYY-MM-DD)	2011-08-31
Name	Frederic M. Douglas	Registration Number	48813

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7227929
Issue Date: June 5,2007
Application No. 10121626
Filed: April 11,2002
Attorney Docket No.

:
: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 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 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

In re Patent No. 7195133
Issue Date: March 27,2007
Application No. 10121737
Filed: April 12,2002
Attorney Docket No. WERTZ/14

:
: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.

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)
7195133	2007-03-27	10121737	2002-04-12	WERTZ/14

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Noel F. Heal/	Date (YYYY-MM-DD)	2011-05-31
Name	Noel F. Heal	Registration Number	26074

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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

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

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of
Staszewski, et al.
Application No. 10/121,761
Filed: 12 April, 2002
Attorney Docket No. TI-33979

DECISION

This is a decision on the petition filed on 9 August, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

NOTE:

Once the Notice of Appeal (with fee) is filed, Appellant **must file a brief (with fee)** pursuant to 37 C.F.R. §41.37 within two months from the date of filing the notice of appeal pursuant to §37 C.F.R. §41.31. (Extensions of time may be available—*see*: 37 C.F.R. Part I.)

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office Action mailed on 10 December, 2009, with reply due absent extension of time on or before 10 March 2010.

The application went abandoned by operation of law after midnight 10 March, 2010.

The Office mailed a Notice of Abandonment 1 July, 2010.

On 9 August, 2010, Petitioner filed a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, a reply in the form of a Notice of Appeal and fee, and made the statement of unintentional delay.

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

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.

---

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

[2] 35 U.S.C. §133 provides:

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

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

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 Technology Center/AU 2618 to await the filing by Petitioner of the Appeal Brief and fee due two (2) months from the mail date of this decision.

*("Appellant **must** file a brief under this section within two months from the date of filing the notice of appeal under §37 C.F.R. §41.31." (See: 37 C.F.R. §41.37) (Emphasis supplied) (Extensions of time may be available—see: 37 C.F.R. Part I.)*

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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

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

MAILED

AUG 19 2011

OFFICE OF PETITIONS

In re Application of :
STASZEWSKI, et al :
Application No. 10/121,761 : DECISION ON PETITION
Filed: April 12, 2002 :
Attorney Docket No. TI-33979 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 2011, 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 July 8, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed April 8, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 9, 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 $1510 and publication fee of $300; (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
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
Alexandria, VA 22313-1450
www.uspto.gov

Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Victor Kouznetsov, et al. :
Application No. 10/122,092 : DECISION ON PETITION
Filed: August 1, 2005 : TO WITHDRAW
Attorney Docket No. 02.092.01 (920-0087US) : 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 24, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 28, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **McAfee-Wong Cabello Lutsch Rutherford & Brucculeri LLP**
20333 Tomball Parkway, 6th Floor
Houston TX 77070

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)
6718581	2004-04-13	10122391	2002-04-16	740381-19

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

SMALL ENTITY

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

LOSS 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 R. Studebaker/	Date (YYYY-MM-DD)	2012-04-18
Name	Donald R. Studebaker	Registration Number	36092

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6718581
Issue Date: April 13,2004
Application No. 10122391
Filed: April 16,2002
Attorney Docket No. 740381-19

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

This is a decision on the electronic petition, filed April 18,2012 ,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 18,2012 .
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

Arnold & Porter LLP (24126)
Attn: SV Docketing Dept.
1400 Page Mill Road
Palo Alto CA 94304

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,700,736
Goddard et al.
Issue Date: April 20, 2010
Application No. 10/123,322
Filed: April 15, 2002
Attorney Docket No. GNE-3330 R1C37
Title: The PRO350 Antibodies

: 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 filed on June 11, 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 one thousand two hundred eight (1,208) days.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated.

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 one hundred seventeen **(1,117)** days is **GRANTED.**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 1103 days (492 + 505 + 106).

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 453 days.

The time taken up by the notice of appeal is excluded from the period of B-delay pursuant to 37 CFR 1.703(b)(4) in connection with the Notice of Appeal filed October 17, 2005. The reduction of 269 days commenced October 17, 2005; the date that the Notice

of Appeal was filed, and ended July 12, 2006, the day before the filing of the request for continued examination. See, 37 CFR 1.703(b)(4).

A review of the record shows that two additional reductions are required.

Patentees should have been assessed a delay of thirty-four (34) days for the submission of a supplemental reply on August 16, 2006. 37 CFR 1.704(c) provides 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:
>
> (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;

The 34 day delay is calculated beginning on July 14, 2006 the day after the submission of the RCE and amendment on July 13, 2006 and ends on August 16, 2006 the day the supplemental reply, in this instance the amendment and declaration were submitted on August 16, 2006.

Further review of the record shows that an additional reduction pursuant to 37 CFR 1.704(c)(10) of 57 days is required.

37 CFR 1.704 (c)(10) provides:

> (10) 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;

The submission of the petition under 37 CFR 1.48 filed September 1, 2009 after the mailing of the Notice of Allowance warrants a 57 day reduction. The submission of the petition after the mailing of the Notice of Allowance interfered in the patent issue process. The 57 day period is calculated beginning on September 1, 2009 and ending on October 27, 2009 the date a response to the petition was rendered. As such the 57 day reduction is required.

Thus the total reduction for patentees' delay totals 170 (61 + 34 + 18 + 57) 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 application is being forwarded to the Certificate 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 one hundred seventeen (1,117)** days.

The $200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed from deposit account no. 50-2387. No additional fees are required.

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 DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,700,736 B2

DATED : April 20, 2010 **DRAFT**

INVENTOR(S) : Goddard 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 1259 days

Delete the phrase "by 1259 days" and insert – by 1,117 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

EUGENE F. FRIEDMAN
FRIEDMAN & FRIEDMAN, LTD.
PRINTERS SQUARE - SUITE 710606
780 SOUTH FEDERAL STREET
CHICAGO IL 60605

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,000,343 :
Issue Date: 21 February, 2006 :
Application No. 10/123,375 : DECISION ON PETITION
Filed: 16 April, 2002 :
Attorney Docket No. 40133-10016 :

This is a decision on the petition filed on 25 October, 2010, resubmitted on 7 January, 2010, and properly treated as a petition under 37 C.F.R. §1.378(b)[1] requesting acceptance of payment of a maintenance fee for the above-referenced patent as having been delayed due to unavoidable delay.

> **NOTE:** While the petition appears not to be signed in the signature block provided on page 3 of the petition form, it is signed and dated on the on the last page of the extended statement.

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

If reconsideration of this decision is desired, a petition for reconsideration under 37 C.F.R. §1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision.

No extension of this 2-month time limit can be granted under 37 C.F.R. §1.136(a) or (b).

A petition for reconsideration **must** be accompanied by the petition fee of $400.00 as set forth in 37 C.F.R. §1.17(f).

---

[1] A grantable petition to accept a delayed maintenance fee payment under 37 C.F.R. §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(l)(1); and
(3) a showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

The petition for reconsideration **shall** include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

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

A petition to accept the delayed payment of a maintenance fee under 35 USC §41(c) and 37 C.F.R. §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;*
>
> *(2) payment of the appropriate maintenance fee, unless previously submitted; and*
>
> *(3) payment of the surcharge set forth in 37 C.F.R. §1.20(i)(1).*

The instant petition fails to satisfy requirement (1), listed/described above.

BACKGROUND

Patent No. 7,000,343 (the '343 patent) issued on 21 February, 2006. The first maintenance fee could have been paid during the period from 21 February, 2009, through midnight 21 August, 2009, or, with a surcharge, during the period from 22 August, 2009, through midnight 21 February, 2006. Accordingly, the patent expired after midnight 21 February, 2010, for failure to pay timely the first maintenance fee.

The instant petition (with fee) pursuant to 37 C.F.R. §1.378(b) was filed on 25 October, 2010. It is noted for the record that Petitioner could have filed a petition (with fee) pursuant to 37 C.F.R. §1.378(c), but appears not to have done so.

STATUTE AND REGULATION

The grant of authority at 35 U.S.C. §41(c)(1) provides that:

> The Director may accept the payment of any maintenance fee required by subsection (b) of this section...after the six-month grace period if the delay is shown to the satisfaction of the Director to have been unavoidable.

The regulations 37 C.F.R. §1.378(b)(3) thus set forth 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. (Emphasis supplied.)

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 of candor and duty to disclose.[2]

OPINION

The Director may accept late payment of the maintenance fee under 35 U.S.C. §41(c) and 37 C.F.R. §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., "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 or reinstate a patent as abandoned or expired due to unavoidable delay cannot be granted where a Petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[7]

---

[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)(Petitioner obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §41(c)(1).

[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).

Petitioner's Contentions
as to Unavoidable Delay

Petitioner Eugene F. Friedman (Reg. No. 25,627 (Petitioner)) sought relief on behalf of patentee/assignee Terrence J. Teichman, pursuant to the regulations at 37 C.F.R. §1.378, averring unavoidable delay.

Patent No. 7,000,343 (the '343 patent) issued on 21 February, 2006. The first maintenance fee could have been paid during the period from 21 February, 2009, through midnight 21 August, 2009, or, with a surcharge, during the period from 22 August, 2009, through midnight 21 February, 2006. Accordingly, the patent expired after midnight 21 February, 2010, for failure to pay timely the first maintenance fee.

The sum and substance of the petition is that, while Petitioner, who is registered to practice before the Office, prosecuted the application, it was Gail Tuler Friedman—who is an attorney but not registered to practice before the Office—who performed the administrative task of docketing the maintenance fee schedule in this matter, and apparently did so erroneously. Thus, the failure was not systemic—such as that which occurs when a computer or computer program fails, but of another form: plain human error, which is a delay that is not unavoidable but unintentional.

Petitioner has failed to pay the proper fee or otherwise authorized the charge of the proper fee or charge/payment of any deficiency, and, thus, the instant petition cannot be addressed substantively. Petitioner is directed to the current fee schedule at the Office website at: http://www.uspto.gov/web/offices/ac/qs/ope/fee2009september15.htm#patapp .

Such facts do not suggest diligence—at least a level of diligence as required herein—on the part of those who were supposed to attend to this matter.

The provisions of 35 U.S.C. §41(c)(1) do not require an affirmative finding that the delay was avoidable, but only an explanation as to why the Petitioner has failed to carry his or her burden to establish that the delay was unavoidable.[8] The provisions of 35 U.S.C. §133 do not require the Commissioner to affirmatively find that the delay was avoidable, but only to explain why the applicant's petition was unavailing.

Petitioner is reminded that it is the patentee's/assignee's burden under the statutes and regulations to make a showing to the satisfaction of the Director that the delay in payment of a maintenance fee is unavoidable.[9]

This the Petitioner and/ or patentee has/have not done.

At bottom, the question is one of diligence.[10]

---

[8] *See Commissariat A. L'Energie Atomique v. Watson*, 274 F.2d 594, 597, 124 USPQ 126, 128 (D.C. Cir. 1960).

[9] *See Rydeen v. Quigg*, 748 F. Supp. 900, 16 USPQ2d 1876 (D.D.C. 1990), aff'd 937 F.2d 623 (Fed. Cir. 1991)(table), *cert. denied*, 502 U.S. 1075 (1992); *Ray v. Lehman, supra.*

Because 35 U.S.C. § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 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.[11] 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 C.F.R. §1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the third/last maintenance fee for this patent.[12] There are three periods to be considered during the evaluation of a petition under 37 C.F.R. §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 reinstate the patent; and

(3) The delay in filing a grantable petition pursuant to §1.378(b) to reinstate the patent.[13]

At the outset and as of this writing, the showing is not persuasive with regards to the nature of the delay in reply that originally resulted in expiration or as to the filing of the initial petition (Items 1 and 2), which are the only periods pertinent at this time.

Petitioner must provide documentary foundations in support of a showing of unavoidable delay.

Thus, at this writing the statements presented in/with the petition fail to satisfy the showing required to establish unavoidable delay within the meaning of 37 C.F.R. §1.378(b).

A showing of diligence in matters before the Office is essential to support a finding of unavoidable delay herein.[14] There is no "sliding scale" based upon the priority given to this maintaining this patent in force, or more diligently seeking reinstatement, *vis-a-vis* other matters 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.

---

[10] *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). *See also: Ray v. Lehman, supra.*

[11] *Ray*, 55 F.3d at 609, 34 USPQ2d at 1788.

[12] *Id.*

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

[14] *See Futures Technology, Ltd. v. Quigg*, 684 F. Supp. 430, 431, 7 USPQ2d 1588 (E.D. Va. 1988)(applicant's diligent inquiry into the status of the application is required to show unavoidable delay); *Douglas v. Manbeck*, 21 USPQ2d 1697, 1699-1700 (E.D. Pa. 1991), *aff'd*, 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992) (even representation by counsel does not relieve the applicant from his obligation to exercise diligence before the USPTO; applicant's lack of diligence extending two and one half years overcame and superseded any omissions by his counsel).

At this writing the record fails to adequately evidence the exercise of due care and diligence observed by prudent and careful persons, in relation to their most important business, which is necessary to establish unavoidable delay.[15]

The record at this writing does not provide a clear showing that reasonable steps were taken to ensure timely payment of the maintenance fee. In fact, the record indicates that no steps were taken by Patentee(s) and/or Assignee to ensure timely payment of the maintenance fee.

The provisions of 37 C.F.R. §1.378(b) preclude acceptance of the delayed payment of the maintenance fee due to unavoidable delay. The regulations at 37 C.F.R. §1.378(b)(3) state 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.

In any future filing, this showing should include, but is not limited to, docket records, tickler reports, and file jacket entries for this application, and documents regarding the alleged cause of the delay and copies of any documents referred to in Petitioner's statement as to the cause of the unavoidable delay are required. All the causes which contributed to the failure to timely pay the maintenance fee must be presented and supported with appropriate evidence.[16] (In general, a Petitioner should identify the party(ies) responsible for making the payment: A showing must be made (with supporting documents) outlining the efforts made to ensure timely payment of the maintenance fee--including scheduling and calendaring information, appointment of an individual with the authority and responsibility to pay the fee, and detailing of the causes for a failure in that process.)

Thus, as of this writing, the Office is unable to grant the relief sought.

In summary, the showing of record has been considered, but does not rise to the level of unavoidable delay. Rather, the showing of record is of possible a lack of diligence. (*See*: http://www.uspto.gov/web/offices/pac/mpep/documents/2500_2590.htm#sect2590)

---

[15] *Pratt, supra.*

[16] The showing must also enumerate 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. Statements from all persons who contributed to the delay are also required.

CONCLUSION

For the reasons stated above, the delay in this case cannot be regarded as unavoidable within the meaning of 35 U.S.C. §41(c)(1) and 37 C.F.R. §1.378(b).

It is noted that the fees paid by Petitioner incorrectly included a $65.00 payment that was not applicable and, thus, inappropriate—the fee is being refunded by credit card. Should Petitioner later find that the fee was not refunded, Petitioner may submit a request for refund to the Office of Finance and include therewith a copy of this decision.

Accordingly, the petition under 37 C.F.R. §1.378(b) is **dismissed**.

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

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

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

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[17]) 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

[17] 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 Petitioners 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

ERGIN ATALAR
5206 WOODSTOVE LANE
COLUMBIA MD 21045

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Application of :
Robert C. SUSIL, et al. :
Application No. 10/123,534 :
Filed: April 15, 2002 :
Attorney Docket No. :

ON PETITION

This is a decision on the renewed petition, filed July 21, 2010, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed November 18, 2009, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on February 19, 2010.

The petition under 37 CFR 1.137(b) satisfies the conditions for revival in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Petitioner is advised that the issue fee paid on October 6, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

[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*

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand 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 of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPP 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) 272-7099.

The application file is being referred to Technology Center AU 3737 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

David Bucci
Petitions Examiner
Office of Petitions

Cc:
Bruce E. Black
FROMMER LAWRENCE & HAUG LLP
745 Fifth Avenue
New York, NY 10151

---

*indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MINTZ, LEVIN
One Financial Center
Boston MA 02111

MAILED
MAR 15 2012
OFFICE OF PETITIONS

In re Patent No. 6,654,768	:	
Issue Date: November 25, 2003	:	
Application No. 10/123,788	:	NOTICE
Filed: April 16, 2002	:	
Attorney Docket No. 18358-005	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed February 23, 2012. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

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

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

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

This file is being forwarded to Files Repository.

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

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MATTHEW D. RABDAU
TEKTRONIX, INC.
14150 S.W. KARL BRAUN DRIVE
P.O. BOX 500 (50-LAW)
BEAVERTON OR 97077-0001

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of :
Ferguson :
Application No. 10/123,833 :
Filed: 15 April, 2002 :
Attorney Docket No. 7285 US :

DECISION

This is a decision on the petition filed on 18 June, 2010, to revive an application pursuant to 37 C.F.R. §1.137(b) as having been 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.

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 December, 2009, with reply due absent extension of time on or before 14 March, 2010.

The application went abandoned by operation of law after midnight 14 March, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 18 June, 2010, Petitioner filed, *inter alia*, a petition with fee pursuant to 37 C.F.R. §1.137(b), a reply in the form of an amendment, and made the statement of unintentional delay.

The Office mailed the Notice of Abandonment on 22 June, 2010.

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 also, by definition, are not intentional.[3]))

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.

---

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

[2] 35 U.S.C. §133 provides:

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

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

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

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center 2628 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal 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

Paper No.

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

MAILED

MAY 25 2011

OFFICE OF PETITIONS

In re Patent Number: 7,178,149 :
Issue Date: 02/13/2007 :
Application Number: 10/123,960 : NOTICE
Filing or 371(c) Date: 04/17/2002 :
Attorney Docket Number: 11333-015001 :

This is a notice regarding your request for acceptance of a fee deficiency submission, which is treated under 37 CFR 1.28, filed on April 7, 2011.

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

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

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

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

Douglas Wood
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)
6521466	2003-02-18	10124125	2002-04-17	PC-101

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity			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	/Aliki K. Collins #43558/	Date (YYYY-MM-DD)	2011-04-20
Name	ALIKI K. COLLINS	Registration Number	43558

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6521466
Issue Date: February 18,2003
Application No. 10124125
Filed: April 17,2002
Attorney Docket No. PC-101

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

This is a decision on the electronic petition, filed April 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 April 20,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

AUG 05 2011

OFFICE OF PETITIONS

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

In re Application of :
James R. Hansen :
Application No. 10/124,181 : DECISION GRANTING PETITION
Filed: April 17, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 11333-016001 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 4, 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 on June 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 should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2456 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7085333	2006-08-01	10124215	2002-04-15	2284-020

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

SMALL ENTITY

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

LOSS 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	/TIMOTHY J. LORENZ, REG. NO. 41954/	Date (YYYY-MM-DD)	2010-10-19
Name	Timothy J. Lorenz	Registration Number	41954

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7085333
Issue Date: August 1,2006
Application No. 10124215
Filed: April 15,2002
Attorney Docket No. 2284-020

:
: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.

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.
10/125,207	04/18/2002	Eric Dichl	PF 010037	4695

7590 09/28/2010

JOSEPH J. LAKS
THOMSON LICENSING LLC
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

EXAMINER	
ABRISHAMKAR, KAVEH	
ART UNIT	**PAPER NUMBER**
2131	
MAIL DATE	**DELIVERY MODE**
09/28/2010	PAPER

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

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Joseph J. Laks
Thomson Licensing LLC
2 Independency Way
P.O. Box 5312
Princeton NJ 08543-5312

In re Application of: Diehl et al.
Application No. 10/125207
Attorney Docket No. PF 010037
Filed: April 18, 2002
For: Process for Managing a Symmetric Key in a Communication Network and Devices for the Implementation of this Process

Petition under 37 CFR 1.48(a)

In view of the papers and petition filed July 22, 2007, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding Alain Durand, such that the current inventorship is now Eric Diehl, Jean-Pierre Andreaux, and Alain Durand.

The petition has been **Granted**.

The application will be forwarded to the Technical Support Staff for issuance of a corrected filing receipt, and Certification of Corrections Branch to reflect the inventorship as corrected.

Inquiries to this decision may be directed to Special Programs Examiner Tod Swann at (571) 272-3612

Tod Swann, SPE, SPRE
Technology Center 2100
Cryptography and Network Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Legal Department (M-495)
P.O. Box 1926
Spartanburg SC 29304

MAILED
NOV 21 2011
OFFICE OF PETITIONS

In re Patent No. 6,696,004 :
Issued: February 24, 2004 :
Application No. 10/125,290 : NOTICE
Filed: April 18, 2002 :
For: IMBEDDED VINYL FLOORING :
PRODUCT AND METHOD OF :
MANUFACTURE :

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

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

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

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

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

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

UNITED STATES 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/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of :
Cheng et al. : DECISION ON
Application No. 10/125,677 : PETITION
Filed: April 18, 2002 :
Attorney Docket No. 14531.141 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 27, 2010.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed February 25, 2010. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. No reply having been received and no extension of time obtained, the application became abandoned effective May 26, 2010. The filing of the instant petition precedes the mailing of a courtesy Notice of Abandonment.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment)(and RCE fee); paid the petition fee; and made the required statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,110 extension of time fee was submitted subsequent to the maximum extendable period for reply, this fee is unnecessary and is being refunded.

Technology Center AU 2425 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the RCE and submission submitted on September 27, 2010.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

VIA eFILE

PATENT APPLICATION
Docket No. 14531.141

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of		)
		)
	David J. Cheng, et al.	)
		)
Serial No.:	10/125,677	) Art Unit
		) 2425
Filed:	April 18, 2002	)
		)
Conf. No.:	2222	)
		)
For:	DISTRIBUTED TUNER ALLOCATION AND CONFLICT	)
		)
Examiner:	Olugbenga O. Idowu	)
		)
Customer No.:	47973	)

PETITION FOR THREE (3) MONTHS EXTENSION OF TIME

ELECTRONICALLY FILED
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 1.136(a), it is respectfully requested that the shortened statutory period which was set for responding to the most recent Office Action be extended for three (3) months.

Payment in the amount of $1,110.00 using the Credit Card payment option in E-Filer with RAM will be used to cover the payment of the fees with respect to this Three (3) Months Extension of Time.

Adjustment date: 12/13/2010 CKHLOK
09/28/2010 INTEFSW 00005846 10125677
Refund Ref:
12/13/2010 0030091684 -1110.00 OP

Credit Card Refund Total: $1110.00

Am Exp..: XXXXXXXXXXX1011

The Commissioner is hereby authorized to charge any fee or to credit any overpayment in connection with this Petition to Deposit Account No. 23-3178 as set forth in 37 C.F.R. § 1.17.

Dated this 27th day of September, 2010.

Respectfully submitted,

/Colby C. Nuttall, Reg. No. 58,146/
Colby C. Nuttall

RICK D. NYDEGGER
Registration No. 28,651
COLBY C. NUTTALL
Registration No. 58,146
Attorneys for Applicant
Customer No. 047973

RDN:CCN

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND

1 Date of Request: 12/09/10

2 Serial/Patent # 10/125,677

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time	IFW	09/27/10	$ 1,110.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND: $ 1,110.00

8 TO BE REFUNDED BY:

- [ ] Treasury Check
- [ ] Credit Deposit A/C #:

9 [ ][ ]--[ ][ ][ ][ ]

10 REASON:

- [ ] Overpayment
- [ ] Duplicate Payment
- [X] No Fee Due (Explanation):

no extension of time obtainable.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Nancy Johnson TITLE: Sr. Petitions Attorney

SIGNATURE: _____ PHONE: 571-272-3219

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: _____ DATE: 12/13/10

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

MAILED

JAN 31 2012

OFFICE OF PETITIONS

In re Patent No. 7,559,895
Issue Date: July 14, 2009
Application No. 10/126,453
Filed: April 19, 2002
Attorney Docket No. 00-379-US-P

DECISION DISMISSING PETITION

This is a decision on the "PETITION TO ACCEPT UNINTENTIONALLY DELAYED DOMESTIC PRIORITY CLAIM PURSUANT TO 37 C.F.R. §1.78(a)(3) and (6)", filed January 24, 2012, requesting acceptance of a claim under 35 U.S.C. 120 for benefit of nonprovisional Application No. 09/686,677, filed October 11, 2000 (now U. S. Patent No. 6,599,247) and under 35 U.S.C. 119(e) for benefit of provisional Application No. 60/216,860, filed July 7, 2000, by way of a Certificate of Correction.[1]

The petition is **DISMISSED**.

A review of the file record reveals that petitioner did not make a claim for benefit of the above-noted, prior-filed nonprovisional and provisional applications within the time period set forth in 37 CFR 1.78(a)(2)(ii) and 37 CFR 1.78(a)(5)(ii). Moreover, petitioner failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and (a)(2)(iii) and 37 CFR 1.78(a)(5)(i) and (iii).

As this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), accompanied a Certificate of Correction and the required fees, is the appropriate avenue of relief for adding or correcting a claim for benefit of a prior-filed **nonprovisional** application after issuance of the application into a patent. See MPEP 1481.03.

[1] It appears that petitioner seeks to add and/or correct the benefit claim via Certificate of Correction as follows: This application, now U.S. Patent No. 7,559,895, issued July 14, 2009, is a continuation-in-part of Application No. 09/686,677, filed October 11, 2000, now U.S. Patent No. 6,599,247, issued July 29, 2003, which claims the benefit of provisional Application No. 60/216,860, filed July 7, 2000.

The Office notes that a petition for acceptance of an unintentionally delayed claim under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR1.78(a)(2)(i) and (iii) 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.

This petition fails to satisfy item (1) above. In this regard, 37 CR 1.78(a)(5)(ii) requires that a claim for the benefit of a prior-filed provisional application must be submitted during the pendency of the application. A Certificate of Correction is not a valid mechanism for adding or correcting a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000. See MPEP 1481.03. Therefore, as this application matured into Patent No. 7,559,895 on July 14, 2009, a claim for the benefit of provisional Application No. 60/216,860 cannot now be added by way of a Certificate of Correction.

In view of the above, a renewed petition under 37 CFR 1.78(a)(3), accompanied by a Certificate of Correction, which deletes the reference to provisional Application No. 60/216,860, must be submitted if petitioner still desires to claim benefit of nonprovisional Application No. 09/686,677.

Petitioner may wish to file a reissue application if it is desired to claim the benefit of provisional Application No. 60/216,860. See MPEP 1402.

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

Correspondence may also be submitted electronically via EFS-Web.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

MAILED
FEB 14 2012
OFFICE OF PETITIONS

In re Patent No. 7,559,895
Issue Date: July 14, 2009
Application No. 10/126,453
Filed: April 19, 2002
Attorney Docket No. 00-379-US-P

DECISION DISMISSING PETITION

This is a decision on the "RENEWD PETITION TO ACCEPT UNINTENTIONALLY DELAYED DOMESTIC PRIORITY CLAIM PURSUANT TO 37 C.F.R. §1.78(a)(3) and (6)", filed February 8, 2012, which is being treated as a renewed petition under 37 CFR 1.78(a)(3), requesting acceptance of a claim under 35 U.S.C. 120 for benefit of nonprovisional Application No. 09/686,677, filed October 11, 2000 (now U. S. Patent No. 6,599,247) by way of a Certificate of Correction.

The petition is **DISMISSED**.

A review of the file record reveals that petitioners did not make a claim for benefit of the above-noted, prior-filed nonprovisional application within the time period set forth in 37 CFR 1.78(a)(2)(ii). Moreover, petitioners failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and (a)(2)(iii). As this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), accompanied a Certificate of Correction and the required fees, is the appropriate avenue of relief for adding or correcting a claim for benefit of a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.03.

The Office notes:

> Where priority is based upon 35 U.S.C. 120 to **a national application**, the following conditions must be satisfied:
>
> (A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

MPEP 1481.03(II)(B) (emphasis in original).

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to add or correct a claim under 35 U.S.C. 120 for benefit of a prior-filed nonprovisional application.

In this instance, petitioners have not satisfied condition (C) above because they did not submit a grantable petition under 37 CFR 1.78(a)(3).

A petition for acceptance of an unintentionally delayed claim under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR1.78(a)(2)(i) and (iii) 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 fails to comply with item (1) above.

The petition must be **dismissed** because the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) has not be properly supplied. With the present renewed petition, petitioners submitted a "REQUEST FOR CERTIFICATE OF CORRECTION." However, petitioners did not submit a Supplemental ADS or an amendment adding the specific reference to the prior-filed nonprovisional application to the first sentence of the specification. Pursuant to 37 CFR 1.78(a)(2)(iii), the reference to the prior-filed nonprovisional application 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. Moreover, petitioners did not provide a completed a certificate of correction form to correct the patent to add the benefit claim of the prior-filed nonprovisional application.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, petitioners must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by either a Supplemental ADS or an

amendment to the specification,[1] and a completed certificate of correction form correcting the patent to add the benefit claim of the prior-filed nonprovisional application on both the front page and the first paragraph of the specification of the Letters Patent.[2] No additional petition fee is required for 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

Correspondence may also be submitted electronically via EFS-Web.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, any Supplemental ADS or amendment submitted on renewed petition must be signed in accordance with 37 CFR 1.33(b).

[2] Petitioners should also include the amendment to the specification on the Certificate of Correction to correct the patent to add the benefit claim of the prior-filed nonprovisional application to column one, first paragraph of the specification.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

MAILED
FEB 27 2012
OFFICE OF PETITIONS

In re Patent No. 7,559,895 :
Issue Date: July 14, 2009 :
Application No. 10/126,453 : DECISION DISMISSING PETITION
Filed: April 19, 2002 :
Attorney Docket No. 00-379-US-P :

This is a decision on the "RENEWED PETITION TO ACCEPT UNINTENTIONALLY DELAYED DOMESTIC PRIORITY CLAIM PURSUANT TO 37 C.F.R. §1.78(a)(3) and (6)", filed February 22, 2012, which is being treated as a renewed petition under 37 CFR 1.78(a)(3), requesting acceptance of a claim under 35 U.S.C. 120 for benefit of nonprovisional Application No. 09/686,677, filed October 11, 2000 (now U. S. Patent No. 6,599,247) by way of a Certificate of Correction.

The petition is **DISMISSED**.

A review of the file record reveals that petitioners did not make a claim for benefit of the above-noted, prior-filed nonprovisional application within the time period set forth in 37 CFR 1.78(a)(2)(ii). Moreover, petitioners failed to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and (a)(2)(iii). As this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), accompanied a Certificate of Correction and the required fees, is the appropriate avenue of relief for adding or correcting a claim for benefit of a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.03.

The Office notes:

> Where priority is based upon 35 U.S.C. 120 to **a national application**, the following conditions must be satisfied:
>
> (A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

MPEP 1481.03(II)(B) (emphasis in original).

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to add or correct a claim under 35 U.S.C. 120 for benefit of a prior-filed nonprovisional application.

In this instance, petitioners have not satisfied condition (C) above because they did not submit a grantable petition under 37 CFR 1.78(a)(3).

A petition for acceptance of an unintentionally delayed claim under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. 120 and 37 CFR1.78(a)(2)(i) and (iii) 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 fails to comply with item (1) above.

The petition must be **dismissed** because the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) has not be properly supplied. With the present renewed petition, petitioners submitted a Supplemental ADS, which includes an improper reference to the prior-filed nonprovisional application. Specifically, the Supplemental ADS indicates that **Application No. 09/686,677** is a continuation in part of Application No. 09/686,677, filed October 11, 2000 (now U.S. Patent No. 6,599,247, issued July 29, 2003).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, petitioners must file a renewed petition under 37 CFR 1.78(a)(3), accompanied by either a Supplemental ADS or an amendment to the specification correcting the benefit claim.[1] No additional petition fee is required for filing a renewed petition.

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, any Supplemental ADS or amendment submitted on renewed petition must be signed in accordance with 37 CFR 1.33(b).

The Office acknowledges the completed Certificate of Correction form correcting the patent to add the benefit claim of the prior-filed nonprovisional application on both the front page and the first paragraph of the specification of the Letters Patent.

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

Correspondence may also be submitted electronically via EFS-Web.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

REED SMITH LLP
P.O. BOX 488
PITTSBURGH PA 15230-0488

MAILED

MAR 01 2012

OFFICE OF PETITIONS

In re Patent No. 7,559,895
Issued: July 14, 2009
Application No. 10/126,453
Filed: April 19, 2002
Attorney Docket No. 00-379-US-P

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3)
: AND REQUEST FOR CERTIFICATE
: OF CORRECTION
:

This is a decision on the "RENEWED PETITION TO ACCEPT UNINTENTIONALLY DELAYED DOMESTIC PRIORITY CLAIM PURSUANT TO 37 C.F.R. §1.78(a)(3) and (6)", filed February 27, 2012, which is being treated as a renewed petition under 37 CFR 1.78(a)(3), requesting acceptance of a claim under 35 U.S.C. 120 for benefit of nonprovisional Application No. 09/686,677, filed October 11, 2000 (now U. S. Patent No. 6,599,247) by way of a Certificate of Correction.

The petition is **GRANTED.**

A review of the file record reveals that petitioners did not make a claim for benefit of the above-noted, prior-filed nonprovisional application within the time period set forth in 37 CFR 1.78(a)(2)(ii). Moreover, petitioners failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and (a)(2)(iii). As this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), accompanied a Certificate of Correction and the required fees, is the appropriate avenue of relief for adding or correcting a claim for benefit of a prior-filed nonprovisional application after issuance of the application into a patent. See MPEP 1481.03.

A petition for acceptance of an unintentionally delayed claim 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) and (iii) 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 benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed.

A corrected Filing Receipt, which includes the claim for benefit of the prior-filed nonprovisional application, accompanies this decision on petition.

Petitioners are 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 petitioners are entitled to claim benefit of the prior-filed application will be made by the Examiner prior to the mailing of a Certificate of Correction.

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).

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

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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
10/126,453	04/19/2002	3768	1098	00-379-US-P	37	8

CONFIRMATION NO. 1597

CORRECTED FILING RECEIPT

718
REED SMITH LLP
P.O. BOX 488
PITTSBURGH, PA 15230-0488

OC000000052841689

Date Mailed: 02/29/2012

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)

George DeWitt Stetten, Pittsburgh, PA;
Andreas G. Nowatzyk, San Jose, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 09/686,677 10/11/2000 PAT 6599247

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: 06/03/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/126,453**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

COMBINING TOMOGRAPHIC IMAGES IN SITU WITH DIRECT VISION USING A HOLOGRAPHIC OPTICAL ELEMENT

Preliminary Class

600

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).

SelectUSA

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOBIN, CARBERRY, O'MALLEY, RILEY, SELINGER, P.C.
43 BROAD STREET
PO BOX 58
NEW LONDON, CT 06320

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Patent No. 6,733,150 :
Issue Date: May 11, 2004 :
Application No. 10/126,906 : NOTICE
Filed: April 19, 2002 :
Attorney Docket No. 4732.111343 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY., SUITE 2110
AUSTIN, TX 78759

MAILED

JUN 17 2011

OFFICE OF PETITIONS

In re Application of :
Michael P. CYR, et *al.* :
Application No. 10/127,064 : DECISION ON PETITION TO
Filed: April 19, 2002 : WITHDRAW FROM RECORD
Attorney Docket No. **AUS920020032US1** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 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 Andrew J. Dillon on behalf of all attorneys of record. Andrew J. Dillon has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to the undersigned 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)
7156306	2007-01-02	10127514	2002-04-22	16625.02023

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

SMALL ENTITY

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

LOSS 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	/Michael J. LaBrie/	Date (YYYY-MM-DD)	2011-02-15
Name	Michael J. LaBrie	Registration Number	39507

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7156306
Issue Date: January 2,2007
Application No. 10127514
Filed: April 22,2002
Attorney Docket No.

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

This is a decision on the electronic petition, filed February 15,2011 ,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 February 15,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

c/o Law Office of Leo Zucker
2591 Dunning Drive
P.O. Box 1177
Yorktown Heights, NY 10598

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,497,174 :
Issue Date: December 24, 2002 :
Application No. 10/127,647 : ON PETITION
Filed: April 22, 2002 :
Patentee(s): Chris Cacace :

This is a decision on the petition under 37 CFR 1.378(c), filed on August 22, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

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

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 2614

MAILED

DEC 29 2010

OFFICE OF PETITIONS

In re Application of :
Schweich et al. :
Application No. 10/127,731 :
Filed: April 23, 2002 :
Attorney Docket No. 10931.0030 :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This decision responds to the "Application for Patent Term Adjustment Pre-Grant" filed July 6, 2010. Applicants request the initial determination of patent term adjustment be corrected from three hundred ninety-five (395) days to one thousand two hundred eighty-eight (1,288) days.

The application for patent term adjustment is **granted to the extent indicated herein.**

The Office has updated the PALM screen to reflect the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is 1,199 days. A copy of the updated PALM screen showing the correct determination is enclosed.

The Office issued a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on April 7, 2010, advising Applicants of a patent term adjustment to date of 395 days. In response, Applicants filed the instant petition with the issue fee on July 6, 2010. The petition includes the $200 fee set forth in 37 C.F.R. § 1.18(e).

Issue 1

A response to a non-final Office action was filed April 18, 2006.

The Office issued a communication suspending prosecution due to a potential interference on April 21, 2006.

The Office issued a communication declaring an interference on July 20, 2006.

The Office issued a decision on the interference in Applicants' favor on August 16, 2007.

Applicants state,

> A letter of Suspension was mailed on April 21, 2006, suspending prosecution of this case until the mailing of an interference decision on August 16, 2006. This resulted in a PTO delay of 117 days. See M.P.E.P. § 2731(b)(2)(ii).

Applicants' rationale for asserting a 117-day increase in patent term adjustment is warranted is unclear. Although Applicants cite M.P.E.P. § 2731(b)(2)(ii) in support of the assertion a 117-day increase in patent term adjustment is warranted, Section 2731 of the MPEP does not include the identified subsection.

Applicants *may* be attempting to assert the prior facts warrant an increase in patent term adjustment under 37 C.F.R. § 1.703(c)(2). Pursuant to 37 C.F.R. § 1.703(c)(2), the period of adjustment under 37 C.F.R. § 1.702(c) includes,

> The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension.

In this case, the Office did *not* suspend prosecution in this case due to existing interference proceedings not involving the instant application. Instead, the Office suspended prosecution due to a potential interference involving the instant application. Therefore, an increase in patent term adjustment under 37 C.F.R. § 1.703(c)(2) is not warranted.

Although an increase in patent term adjustment is not warranted under 37 C.F.R. § 1.703(c)(2), a 28-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(c)(1).

Pursuant to 37 C.F.R. § 1.703(c)(1), the period of adjustment under 37 C.F.R. § 1.702(c) 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 number of days beginning July 20, 2006, the date the interference was declared, and ending August 16, 2006, the date the interference was terminated, is 28 days. Therefore, a 28-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(c)(1).

Issue 2

The Board of Patent Appeals and Interferences ("Board") issued a decision on the interference on August 16, 2006. The Office issued a Notice of Allowance on January 30, 2009.

Applicants assert the Office should have entered a 776-day increase in patent term adjustment for Office delay in the issuance of the January 30, 2009 Notice of Allowance.

Pursuant to 37 C.F.R. § 1.703(a)(5), the period of Office 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 of a final decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145 or 146 where at least one allowable claim remains in the application and ending on the date of mailing of either an action under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151, whichever occurs first.

At least one allowable claim remained in the application after the Board decision and the Office did not issue the January 30, 2009 Notice of Allowance until four months and 776 days after the date the Office issued the Board decision. Therefore, a 776-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(a)(5).

Conclusion

The record indicates the period of Office Delay should include:

1. A 28-day period of delay under 37 C.F.R. § 1.703(c)(1), and
2. A 776-day period of delay under 37 C.F.R. § 1.703(a)(5).

The correct total period of Office delay, as of the date the Office issued the April 7, 2010 Notice of Allowance, is 1,348 (268 + 276 + 28 + 776) days.

The correct patent term adjustment, as of the date the Office issued the April 7, 2010 Notice of Allowance, is 1,199 days, which is 1,348 days of Office Delay reduced by 149 days of Applicant Delay.

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*: 10127731 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 10127731

Application Filing Date	04/23/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	571
A Delays	544	PTO Manual Adjustment	777
B Delays	0	Applicant Delay (APPL)	149
C Delays	27	Total PTA (days)	1199

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
111	12/28/2010		P028	Adjustment of PTA Calculation by PTO		27	0
110	12/28/2010		P028	Adjustment of PTA Calculation by PTO	804		0
100	04/07/2010		MN/=.	Mail Notice of Allowance			0
99	04/06/2010		IREV	Issue Revision Completed			0
98	04/06/2010		DVER	Document Verification			0
97	04/06/2010		N/=.	Notice of Allowance Data Verification Completed			0
96	03/31/2010		CNTA	Notice of Allowability			0
93	02/26/2010		IDSC	Information Disclosure Statement considered			0
92	02/26/2010		RCAP	Reference capture on IDS			0
91	02/26/2010	01/08/2010	M844	Information Disclosure Statement (IDS) Filed		49	88
90	02/26/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
89	02/04/2010		FWDX	Date Forwarded to Examiner			0
88	01/08/2010	10/10/2009	A...	Response after Non-Final Action		90	85
87	01/08/2010		XT/G	Request for Extension of Time - Granted			0
85	07/10/2009		MCTNF	Mail Non-Final Rejection			0
84	07/08/2009		CTNF	Non-Final Rejection			0
80	05/06/2009		FWDX	Date Forwarded to Examiner			0
78	05/06/2009		FWDX	Date Forwarded to Examiner			0
76	05/06/2009		ABN9	Disposal for a RCE / CPA / R129			0
83	04/27/2009		IDSC	Information Disclosure Statement considered			0
82	04/27/2009		RCAP	Reference capture on IDS			0
81	04/27/2009		M844	Information Disclosure Statement (IDS) Filed			0
79	04/27/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
77	04/27/2009		RCEX	Request for Continued Examination (RCE)			0
75	04/27/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
74	04/27/2009		BRCE	Workflow - Request for RCE - Begin			0
73	04/02/2009		FIDC	Finished Initial Data Capture			0
72	02/02/2009		EIDC	Export to Initial Data Capture			0
71	01/30/2009		MN/=.	Mail Notice of Allowance			0
70	01/29/2009		IREV	Issue Revision Completed			0
69	01/29/2009		DVER	Document Verification			0
68	01/29/2009		N/=.	Notice of Allowance Data Verification Completed			0
67	01/29/2009		DOCK	Case Docketed to Examiner in GAU			0
66	11/24/2008		CNTA	Notice of Allowability			0
61	03/12/2008		IDTC	Interference dispatch to TC			0
57	11/08/2006		FWDX	Date Forwarded to Examiner			0
56	11/08/2006		EOSP	to Close the A/R(Record and Reset the Status for Expired Suspensions.			0
55	09/25/2006		DOCK	Case Docketed to Examiner in GAU			0
54	08/22/2006		FWDX	Date Forwarded to Examiner			0
60	08/16/2006		MID/F	Mail Interference Decision - Favorable			0
59	08/16/2006	07/20/2006	ID/F.	Interference Decision on Priority - Favorable	27		58
58	07/20/2006		I.D.	Declaration of Interference			0
50	04/21/2006		ML.SP	Mail Letter of Suspension			0
53	04/18/2006		SA..	Supplemental Response			0
49	04/17/2006		LSP.	Letter of Suspension - Examiner Initiated			0
45	04/04/2006		MCTRS	Mail Restriction Requirement			0
48	04/03/2006		CTID	Interference Initial Memo Disposal			0
47	04/03/2006		FWDX	Date Forwarded to Examiner			0
44	04/03/2006		CTRS	Requirement for Restriction / Election			0
46	03/30/2006		ELC.	Response to Election / Restriction Filed			0
43	02/15/2006		FWDX	Date Forwarded to Examiner			0
42	02/08/2006		A...	Response after Non-Final Action			0
41	01/26/2006		MCTMS	Mail Miscellaneous Communication to Applicant			0
40	01/23/2006		CTMS	Miscellaneous Action with SSP			0
38	11/08/2005		FWDX	Date Forwarded to Examiner			0

39	10/27/2005		AF/D	Affidavit(s) (Rule 131 or 132) or Exhibit(s) Received			0
37	10/27/2005		A...	Response after Non-Final Action			0
36	10/27/2005		XT/G	Request for Extension of Time - Granted			0
35	08/25/2005	11/22/2004	MCTMS	Mail Miscellaneous Communication to Applicant	276		25
34	08/22/2005		CTMS	Miscellaneous Action with SSP			0
33	06/08/2005		FWDX	Date Forwarded to Examiner			0
32	06/08/2005		EOSP	to Close the A/R Record and Reset the Status for Expired Suspensions.			0
31	04/08/2005		C.ADB	Correspondence Address Change			0
30	11/12/2004		ML.SP	Mail Letter of Suspension			0
29	11/10/2004		L.SP	Letter of Suspension - Examiner Initiated			0
28	08/11/2004		P574	Paralegal TD Accepted			0
26	08/04/2004		FWDX	Date Forwarded to Examiner			0
27	07/22/2004	07/22/2004	DIST	Terminal Disclaimer Filed			25
25	07/22/2004		A...	Response after Non-Final Action			0
24	07/22/2004		WAMD	Workflow incoming amendment IFW			0
23	06/22/2004		MCTNF	Mail Non-Final Rejection			0
22	06/21/2004		CTNF	Non-Final Rejection			0
19	04/27/2004		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
18	04/27/2004		FWDX	Date Forwarded to Examiner			0
21	04/26/2004		RCAP	Reference capture on IDS			0
20.7	04/26/2004	04/16/2004	M844	Information Disclosure Statement (IDS) Filed		10	17
20	04/26/2004		WIDS	Information Disclosure Statement (IDS) Filed			0
17	04/16/2004		ELC.	Response to Election / Restriction Filed			0
16	03/17/2004	06/23/2003	MCTRS	Mail Restriction Requirement	268		-1
15	03/16/2004		CTRS	Requirement for Restriction / Election			0
14	06/30/2003		A.PE	Preliminary Amendment			0
13	05/29/2003		A.PE	Preliminary Amendment			0
12	05/15/2003		A.PE	Preliminary Amendment			0
11	12/13/2002		A.PE	Preliminary Amendment			0
10	08/27/2002		DOCK	Case Docketed to Examiner in GAU			0
7	07/22/2002		OIPE	Application Dispatched from OIPE			0
6	07/22/2002		COMP	Application Is Now Complete			0
8.7	07/02/2002		M844	Information Disclosure Statement (IDS) Filed			0
8	07/02/2002		WIDS	Information Disclosure Statement (IDS) Filed			0
5	07/02/2002		ADDFLFEE	Additional Application Filing Fees			0
4	07/02/2002		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
3	05/07/2002		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
2	05/04/2002		SCAN	IFW Scan & PACR Auto Security Review			0
9	04/23/2002		A.PE	Preliminary Amendment			0
1	04/23/2002		IEXX	Initial Exam Team nn			0

Export to: Excel

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/11/11

TO SPE OF : ART UNIT 1775

SUBJECT : Request for Certificate of Correction for Appl. No.: 10128118 Patent No.: 6706402

CofC mailroom date: 03/11/10

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: OK to enter

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Michael Marcheschi SPE 1775

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

WILMERHALE/BOSTON
60 STATE STREET
BOSTON MA 02109

MAILED
APR 22 2011
OFFICE OF PETITIONS

In re Patent No. 6,706,402 : DECISION GRANTING PETITION
Issue Date: March 16, 2004 : UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/128,118 : REQUEST FOR CERTIFICATE OF
Filed: April 23, 2002 : CORRECTION
Attorney Docket No. 112020.129 :

This is a decision on the renewed petition, filed April 12, 2011, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to three nonprovisional applications by way of a certificate of correction.

The three applications are 09/915,093, 09/915,173 and 09/915,095 all filed on July 25, 2001.

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 April 23, 2002. 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 renewed 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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-6842.

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).

Carl Friedman
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
10/128,118	04/23/2002	1775	1018	112020.129	20	4

CONFIRMATION NO. 5996

CORRECTED FILING RECEIPT

23483
WILMERHALE/BOSTON
60 STATE STREET
BOSTON, MA 02109

Date Mailed: 04/22/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Thomas Rueckes, Watertown, MA;
Brent M. Segal, Medford, MA;

Power of Attorney: The patent practitioners associated with Customer Number 23483

Domestic Priority data as claimed by applicant

This application is a CIP of 09/915,093 07/25/2001 PAT 6,919,592
and is a CIP of 09/915,173 07/25/2001 PAT 6,643,165
and is a CIP of 09/915,095 07/25/2001 PAT 6,574,130

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: 05/24/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/128,118**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

NANOTUBE FILMS AND ARTICLES

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/5/11

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/128151 Patent No.: 7595147

CofC mailroom date 11/30/09

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 Johnson
Certificates of Correction Branch
703-756-1580

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: _____

/Manjunath Rao/ — SPE

1656 — Art Unit

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

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

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,656,158	2003-12-02	10/128,203	2002-04-23	59249-0036(INSL-123)

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

SMALL ENTITY

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

LOSS 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	/Kevin J. Carroll/	Date (YYYY-MM-DD)	2012-02-08
Name	Kevin J. Carroll	Registration Number	36384

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6656158
Issue Date: December 2,2003
Application No. 10128203
Filed: April 23,2002
Attorney Docket No. 59249-0036 (INSL-123)

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

This is a decision on the electronic petition, filed February 8,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 8,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

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)
6,656,159	2003-12-02	10/128,205	2002-04-23	59249-0035(INSL-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.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Kevin J. Carroll/	Date (YYYY-MM-DD)	2012-02-08
Name	Kevin J. Carroll	Registration Number	36384

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6656159
Issue Date: December 2,2003
Application No. 10128205
Filed: April 23,2002
Attorney Docket No. 59249-0035 (INSL-122)

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

This is a decision on the electronic petition, filed February 8,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 8,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

USDA, ARS, OTT
5601 SUNNYSIDE AVE
RM 4-1159
BELTSVILLE MD 20705-5131

MAILED

APR 08 2011

OFFICE OF PETITIONS

In re Application of :
GRUBMAN, et al :
Application No. 10/128,463 : ON PETITION
Filed: April 24, 2002 :
Attorney Docket No. 0128.01 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2011, 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 November 20, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 21, 2009.

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.

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

This application is being referred to Technology Center AU 1633 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

MAILED

SEP 22 2010

OFFICE OF PETITIONS

In re Patent No. 6,918,509 :
Issue Date: July 19, 2005 :
Application No. 10/128,470 : ON PETITION
Filed: April 24, 2002 :
Attorney Docket No.: 02280.003000. :

This is a decision in response to the petition under 37 CFR 1.378(c), filed July 23, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on July 19, 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).

It is noted that the petition requests that the surcharge of $1,620, *sic* $1,640, under 37 CFR 1.20(i)(3) be charged to a deposit account. The petition also indicates that a Maintenance Fee Transmittal Form, with authorization to charge the $980 maintenance fee under 37 CFR 1.20(e) and the $130 surcharge under 37 CFR 1.20(a), *sic* 1.20(i)(1), is submitted herewith. However, no such form was found. Therefore, the $1,640 surcharge and the $980 maintenance fee are being charged to counsel's deposit account, as authorized. The $130 surcharge under 37 CFR 1.20(i)(1) is not being charged to counsel's deposit account since it being submitted after the grace period provided by 37 CFR 1.362(e).

The 3 ½ year maintenance fee 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ROTHWELL, FIGG, ERNST & MANBECK, P.C.
1425 K STREET, N.W.
SUITE 800
WASHINGTON DC 20005

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Patent No. 6,713,085	:	
Issue Date: March 30, 2004	:	
Application No. 10/128,525	:	NOTICE
Filed: April 24, 2002	:	
Attorney Docket No. 1194-188	:	

This is a notice regarding your request, July 13, 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**.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

DEC 16 2010

OFFICE OF PETITIONS

NIXON & VANDERHYE PC
901 NORTH GLEBE ROAD 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 7,048,930 :
Issue Date: May 23, 2006 :
Application No. 10/128,578 : DECISION ON PETITION
Filed: April 24, 2002 :

This is a decision on the petition to reinstate an expired patent under 37 CFR 1.378(c), filed October 4, 2010.

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

The above-identified patent issued May 23, 2006. Accordingly, the first maintenance fee could have been paid during the period from May 23, 2009 through November 23, 2009 without surcharge, or with a late payment surcharge during the period from November 24, 2009 through May 23, 2010. No maintenance fee having been received, the patent expired on May 24, 2010.

Since the instant petition was filed within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c). The maintenance fee in this case is accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

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

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/02/11

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 10129763 Patent No.: 7239746

CofC mailroom date: 04/26/11

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Matthew C. Bella/_____ ____2624___

SPE Art Unit

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.
10/130,310	05/16/2002	Lars Hall	69993-254088	3838

26694 7590 02/17/2011

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

EXAMINER	
BAREFOOT, GALEN L	

ART UNIT	PAPER NUMBER
3644	

MAIL DATE	DELIVERY MODE
02/17/2011	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

In re Patent No. HALL, LARS
Issue Date: October 3, 2006
Appl No.: 10/130,310
Filed: May 16, 2002
For: DEVICE AND METHOD OF A SPACECRAFT

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed October 4, 2010 to correct inventorship under 37 CFR 1.324.

The petition is granted.

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

Michael R. Mansen
Supervisory Patent Examiner
Art Unit 3644
Technology Center 3600

VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

UNITED STATES 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: February 16, 2011
TO: Certificates of Correction Branch
FROM: Michael R. Mansen
SPE, Art Unit 3654
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,114,683 as specified on the attached Certificate.

Michael R. Mansen, SPE
Art Unit 3644

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,114,683
Patented: October 3, 2006

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

Lars Hall, Sturefors SWEDEN; Nils G. Gustafsson, Linghem SWEDEN; and Johan Öhlin, Rimforsa SWEDEN

Michael R. Mansen
Supervisory Patent Examiner
Art Unit 3644

UNITED STATES 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 21 2011

OFFICE OF PETITIONS

ELMORE PATENT LAW GROUP, PC
484 Groton Road
Westford, MA 01886

In re Application of :
Page et al. :
Application No. 10/130,340 :
371(c) Date: September 26, 2022 :
Attorney Docket No. 4033.3009 US :

DECISION ON APPLICATION
FOR PATENT TERM ADJUSTMENT

This is in response to the "Request for Reconsideration of the Patent Term Adjustment Under 37 CFR 1.705" filed October 13, 2010. Applicants request the initial determination of patent term adjustment be corrected from zero (0) days to two hundred sixty-nine (269) days.

The application for patent term adjustment is **dismissed**.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) on September 2, 2010, advising Applicants of a patent term adjustment to date of 0 days. In response, Applicants timely filed this application for patent term adjustment prior to payment of the issue fee.

The Office previously entered the following adjustments to the patent term:

(1) A 44-day increase under 37 C.F.R. § 1.703(a)(1),
(2) A 23-day increase under 37 C.F.R. § 1.703(a)(2),
(3) A 612-day reduction under 37 C.F.R. § 1.704(b),
(4) A 396-day reduction under 37 C.F.R. § 1.704(c)(7), and
(5) A 54-day reduction under 37 C.F.R. § 1.704(b).

Applicants agree with entries (1), (2), and (5) set forth above. Applicants contend entries (3) and (4) were improper.

Applicants contend the Office should have also entered the following adjustments to the patent term:

1. A 61-day increase under 37 C.F.R. § 1.703(a)(2) for Office delay in responding to an amendment filed December 12, 2005,

2. A 195-day increase under 37 C.F.R. § 1.703(a)(2) for Office delay in responding to an amendment filed April 21, 2009.

Issue 1

The Office mailed a restriction requirement on January 9, 2004, setting a shortened statutory period for reply of the longer of one month or thirty days. The Office did not receive a response to restriction requirement. As a result, the application became abandoned on February 10, 2004. The Office issued a Notice of Abandonment on October 1, 2004.

The instant petition indicates "an attorney at the law firm of Edwards Angell Palmer and Dodge, LLP (E&A) discovered the application was abandoned" on December 2, 2005.

If the restriction requirement was never received at the address of record, Applicants could have filed a petition to withdraw the holding of abandonment arguing the application was not actually abandoned based on non-receipt of the restriction requirement.

Applicants filed a petition under 37 C.F.R. § 1.137(b) to revive the application on December 12, 2005. The petition under 37 C.F.R. § 1.137(b) was not accompanied by a petition to withdraw the holding of abandonment and the petition did not assert the application was not actually abandoned because the restriction requirement was never received. Instead, the petition stated, "The above-identified application became abandoned for failure to timely and properly reply to a notice or action by the United States Patent and Trademark Office."

A "Renewed Petition to Revive Unintentionally Abandoned Application" was filed August 11, 2006. The papers filed August 11, 2006, included an assertion the restriction requirement was never received. However, the papers did not include a petition to withdraw the holding of abandonment and did not assert the application was not actually abandoned because the restriction requirement was never received. Instead, the renewed petition stated, "The Application was abandoned on July 9, 2004, for failure to submit a reply to a Restriction Requirement mailed January 9, 2004."

The Office issued a decision granting the renewed petition under 37 C.F.R. § 1.137(b) on November 29, 2006.

In essence, the instant petition requests the Office treat the holding of abandonment as having been withdrawn for purposes of calculating the patent term adjustment.

If Applicants wished to contend the application was not abandoned because the restriction requirement was never received. A petition under 37 C.F.R. § 1.705(b) filed more than six years after the Office mailed a Notice of Abandonment is not a proper vehicle to challenge a holding of abandonment. Therefore, the Office will not treat the holding of abandonment as having been withdrawn for purposes of calculating the patent term adjustment.

Issue 2

The petition under 37 C.F.R. § 1.137(b) filed December 15, 2005, included a reply to the prior restriction requirement.

Applicants contend a 61-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(a)(2) because the Office did not issue a response to the December 15, 2005 reply until four months and 61 days after the date the reply was filed.

Applicants' reply to the restriction requirement was filed during the period of abandonment. If a reply to an outstanding Office action is filed during the period of abandonment, the four-month period set forth in 37 C.F.R. § 1.703(a)(2) does not begin until a decision is mailed granting the petition. An Office action was issued within four months of November 29, 2006, the date the Office issued a decision granting a petition to revive the application. Therefore, a 61-day increase in patent term adjustment for Office delay in the issuance of a response to the December 12, 2005 reply is not warranted.

Issue 3

Pursuant to 37 C.F.R. § 1.704(c)(3), circumstances that will result in a reduction in the period of adjustment include the abandonment of the application. If an application is abandoned, the reduction under 37 C.F.R. § 1.704(c)(3) is the number of days beginning on the date of abandonment and ending on the earlier of: (1) the date of mailing of the decision reviving the application or accepting late payment of the issue fee; or (2) 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 application became abandoned on February 10, 2004.

A grantable petition under 37 C.F.R. § 1.137(b) was filed August 11, 2006. A decision granting the petition under 37 C.F.R. § 1.137(b) was issued November 29, 2006, less than four months after the date a grantable petition was filed.

The number of days beginning February 10, 2004, the date of abandonment, and ending November 29, 2006, the date the Office issued a decision reviving the application, is 1,094 days. Therefore, a 1,094-day reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(3).

Issue 4

Applicants contend the Office's entry of a 612-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) was improper. In view of the specific facts in this case, including the fact the 612-day period falls within the 1,094-day period of delay under 37 C.F.R. § 1.704(c)(3), the Office agrees a 612-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) is not warranted in the instant case.

Issue 5

Applicants contend the Office's entry of a 396-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) was improper.

The Office has reviewed the record and determined the Office's entry of the 396-day reduction in patent term adjustment was improper.

Issue 6

Applicants submitted a response to the January 9, 2004 restriction requirement on December 15, 2005.

The Office issued a Notice of Non-Compliant Amendment on January 3, 2007.

An amendment was filed in response to the January 3, 2007 notice on January 12, 2007.

Pursuant to 37 C.F.R. § 1.704(c)(7), circumstances that will result in a reduction in the period of adjustment include:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

In view of the Notice of Non-Compliant Amendment, a reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(7).

Normally, the reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7) would be the number of days beginning December 16, 2005, the day after the date the reply with an omission was filed, and ending January 12, 2007, the date a reply correcting the omission was filed. However, in view of the fact the reply was filed during the period of abandonment, the proper reduction in patent term adjustment under 37 C.F.R. § 1.704(c)(7) is 44 days, which is the number of days beginning November 30, 2006, the day after the date the application was revived, and ending January 12, 2007, the date a reply correcting the omission was filed.

Issue 7

Applicants contend a 195-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(a)(2) for Office delay in responding to an amendment filed April 21, 2009.

Pursuant to 37 C.F.R. § 1.703(a)(2), Office 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 April 21, 2009 amendment was filed in response to a non-final Office action, and the Office did not issue a response to the April 21, 2009, until March 4, 2010, which was four months and 195 days after the amendment was filed. Therefore, the Office agrees a 195-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(a)(2).

Conclusion

Delay Under 37 C.F.R. § 1.703(a)

Applicants do not disagree with the following adjustments previously entered by the Office under 37 C.F.R. § 1.703(a):

1. A 44-day increase in patent term adjustment under 37 C.F.R. § 1.703(a)(1), and
2. A 23-day increase under 37 C.F.R. § 1.703(a)(2).

As previously discussed, a 195-day increase in patent term adjustment is warranted under 37 C.F.R. § 1.703(a)(2) for Office delay in responding to an amendment filed April 21, 2009.

The total period of delay under 37 C.F.R. § 1.703(a) ("Office Delay") is 262 (44 + 23 + 195) days.

Delay Under 37 C.F.R. § 1.704

Applicants do not disagree with a 54-day reduction in patent term adjustment under 37 C.F.R. § 1.703(b) previously entered by the Office.

As previously discussed, a 1,094-day reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(3) and a 44-day reduction in patent term adjustment is warranted under 37 C.F.R. § 1.704(c)(7)

The total period of delay under 37 C.F.R. § 1.704 ("Applicant Delay") is 1,192 (54 + 1094 + 44) days.

The Proper Patent Term Adjustment

The Determination of Patent Term Adjustment under 35 U.S.C. 154(b) issued with the Notice of Allowance set forth a patent term adjustment determination to date of 0 days. The period of Applicant Delay (1,192 days) is greater than the period of Office Delay (262 days). The Office does not set forth negative balances of patent term adjustment. Therefore, the initial patent term adjustment determination of 0 days is correct.

Pursuant to the instant decision, the Office has updated the Office's PALM and PAIR systems to indicate the total period of "Office Delay" was 262 days, and the total period of Applicant Delay was 1,192 days, as of date the Office issued the Notice of Allowance.

Submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Applicants are reminded 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

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
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:	25371-001N01US		
Application Number:	10/130,659	Filing Date (or 371(b) or (f) Date):	March 5, 2003
Patent Number:	7,659,387	Issue Date:	February 9, 2010
First Named Inventor:	Hajime Tei		
Title:	Transgenic Mammals Introduced A Period 1 Promoter That Confers Rhythmical Expression		

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	/Cynthia Kozakiewicz/	Date	August 5, 2010
Name (Print/Typed)	Cynthia Kozakiewicz	Registration Number	42,764

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 if more than one signature, see below**.*

☐ *Total of 1 forms are submitted.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Beattie Ingrid A Beattie
Mintz Levin Cohn Ferris Glovsky & Popeo
One Financial Center
Boston, MA 02111

Mail Date: 08/12/2010

Applicant	: Hajime Tei	: DECISION ON REQUEST FOR
Patent Number	: 7659387	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/130,659	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 03/05/2003	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **54** 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

MAILED

SEP 29 2010

OFFICE OF PETITIONS

MAGINOT, MOORE & BECK LLP
CHASE TOWER
SUITE 3250
111 MONUMENT CIRCLE
INDIANAPOLIS IN 46204-5109

In re Application of	:	
Becker et al.	:	
Application No. 10/130,725	:	ON PETITION
Filed: August 13, 2002	:	
Attorney Docket No. 1890-0153	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 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 a Response to Office Action, including amendments, (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

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

This matter is being referred to Technology Center AU 2611 for further examination on the merits.

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

STEVEN J WEISSBURG
51 FROST ST.
CAMBRIDGE MA 02140

MAILED

MAY 18 2011

OFFICE OF PETITIONS

In re Application of :
SACHS, Emanuel M. :
Application No. 10/131,001 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 6,629,559 :
Filed: April 24, 2002 :
Attorney Docket No. **MIT 7642D1**

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

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

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

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

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

/Thurman K. Page/
Thurman K. Page
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)
7,149,694	2006-12-12	10/131,369	2002-04-23	OIC0049US

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

SMALL ENTITY

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

LOSS 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	/Brenna A. Brock/	Date (YYYY-MM-DD)	2010-12-22
Name	Brenna A. Brock	Registration Number	48509

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 7149694
Issue Date: December 12,2006
Application No. 10131369
Filed: April 23,2002
Attorney Docket No. OIC0049US

:
: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 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 22,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

MAY 23 2011

OFFICE OF PETITIONS

STMICROELECTRONICS, INC.
MAIL STATION 2346
750 CANYON DRIVE, SUITE 300
COPPELL, TX 75019

In re Patent No. 7,927,424	:	
Sidhwa	:	DECISION DISMISSING
Application No. 10/131,455	:	REQUEST FOR
Issue Date: April 19, 2011	:	RECONSIDERATION OF
Filed: April 22, 2002	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
01-P-042 (STMI01-01042)	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Determination under 37 CFR 1.705(d)" filed April 19, 2011. Patentee requests that the determination of patent term adjustment be corrected from five hundred and eighty-two (582) days to six hundred and nineteen (619) days.

The request for reconsideration of 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 582 days.

Patentee's are given ONE (1) MONTH from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

This application was filed on April 22, 2002. On April 19, 2011, the application matured into U.S. Patent No. 7,927,424 with a revised patent term adjustment of 582 days. The instant petition under 37 CFR 1.705(d) was filed on April 19, 2011, within two months of the issuance of the patent.

Patentee disputes the reduction to the patent term adjustment of a total of 65 days (28 + 28 + 9) entered after the Notice of Allowance and Issue Fee Due was mailed on December 13, 2010.

Patentee asserts that the patent term adjustment should only be reduced under 37 CFR 1.704(c)(10) by 28 days for the filing of a amendment under 1.312 on February 23, 2011.

Patentees' argument has been considered and is not persuasive. A review of the application reveals that on February 14, 2011, replacement drawings were filed. Then, on February 23, 2011, an amendment under 37 CFR 1.312 was filed. It is noted that the "Remarks" that accompanied the amendment under 37 CFR 1.312 state, in pertinent part that:

> In addition, replacement drawings are being submitted herewith to include reference characters "204" and "205", which are mentioned at page 14, line 8 of the specification as filed but not found in Figure 3B as filed.

Excerpt taken from "Amendment under 37 CFR 1.312 'Remarks', filed February 23, 2011, p. 3.

A review of the replacement drawings filed with the amendment under 37 CFR 1.312 reveal that Figure 3B is, in fact, amended to include reference characters "204" and "205". A response to the amendment under 37 CFR 1.312 was mailed April 19, 2011. As patentee asserts, the filing of the amendment under 37 CFR 1.312 resulted in a reduction under 37 CFR 1.704(c)(10)[1] of 28 days, with said period beginning February 23, 2011, the day the amendment was filed, and ending March 22, 2011, the day the response to the amendment under 37 CFR 1.312 was mailed.

---

[1] 37 CFR 1.704(c)(10)provides that:

> (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 periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the periods 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 other such paper; or
>
> (ii) Four months...

The filing of the amendment under 37 CFR 1.312 on February 23, 2011, is not the only filing patentee made that subjected the patent term to reduction under 37 CFR 1.704(c)(10). It is noted that six pages of "Replacement Drawing", without more, were filed on February 14, 2011. Patentee appears to assert that the replacement drawings filed February 14, 2011, were a part of the amendment under 37 CFR 1.312 filed February 23, 2011. Contrary to this assertion, a review of the replacement drawings filed February 14, 2011, reveals that Figure 3B of those drawings contains no reference characters "204" and "205". It is, therefore, concluded that the replacement drawings filed February 14, 2011, were not a part of the amendment under 37 CFR 1.312, but an "other paper", as expressed in 37 CFR 1.704(c)(10) subject to its own reduction under 37 CFR 1.704(c)(10). It is further concluded that the response to the amendment under 37 CFR 1.312 mailed March 22, 2011, is not responsive to the replacement drawings filed February 2011, as the paper mailed March 22, 2011, indicates only that the amendment under 37 CFR 1.312 filed February 23, 2011, is being entered and says nothing of the replacement drawings filed February 14, 2011. It is noted that drawings are identified as one of the papers[2] the filing of which the Director has specifically deemed to be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10). Accordingly, a reduction to the patent term adjustment of 65 days was warranted for the filing of the replacement drawings on February 14, 2011, with said period beginning February 14, 2011, and ending April 19, 2011, with the issuance of the patent as no other reply to the replacement drawings filed February 14, 2011, was mailed before that. It is further noted that the reduction to the patent term adjustment

---

[2] It is noted that *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)states, in pertinent part, that:

> …the submission of other papers after a "Notice of Allowance" is mailed that do cause substantial interference and delay in the patent issue process are considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application pursuant to 37 CFR 1.704(c)(1)). The following are examples of such papers: (1) a request for refund, (2) a status letter, (3) amendments under 37 CFR 1.312, (4) later priority claims, (5) a certified copy of a priority document, (6) drawings, (7) letters related to biological deposits, and (8) oaths or declarations.

under 37 CFR 1.704(c)(10) for the filing of the amendment under 37 CFR 1.312 completely overlaps with the reduction to the patent term adjustment under 37 CFR 1.704(c)(10)for the filing of the replacement drawings on February 14, 2011. Accordingly, only a period of reduction to the patent term adjustment of 65 days was entered.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 582 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.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
APR 11 2011
OFFICE OF PETITIONS

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

In re Application of	:	
Robert B. STASZEWSKI et al.	:	DECISION GRANTING PETITION
Application No. 10/131,523	:	UNDER 37 CFR 1.137(b)
Filed: April 24, 2002	:	
Atty. Docket No.: TI-33172	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 27, 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 nonfinal Office action mailed March 26, 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. The application thus became abandoned on June 27, 2010, and a Notice of Abandonment was subsequently mailed November 1, 2010.

A grantable petition under 37 CFR1.137(b) must be accompanied by: (1) the reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR1.137(d).

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the nonfinal Office action mailed March 26, 2010, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the nonfinal Office action is accepted as having been 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. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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

The application file will be referred to Technology Center Art Unit 2611 for further action on the filed Response.

Rajnesh Krishnamurthy

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

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 :
Ismagilov et al. :
Application No. 10/131,610 :
Patent No.: 6,843,262 :
Filed: April 24, 2002 :
Issued: January 18, 2005 :
Attorney Docket No.: :
H0498.70183US00 :
Title: FLUIDIC SWITCHES AND :
METHOD FOR CONTROLLING FLOW IN :
FLUIDIC SYSTEMS :

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

SEP 2 8 2010

OFFICE OF PETITIONS

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

In re Application of	:	
Eko N. Onggosanusi, et al.	:	
Application No. 10/131,742	:	DECISION ON PETITION
Filed: April 22, 2002	:	
Attorney Docket No. TI-32932	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 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 non-final Office action mailed, July 9, 2009, 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 October 10, 2009. The Notice of Abandonment was mailed January 22, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of
James William Huckle et al
Application No. 10/131,784
Filed: April 24, 2002
Attorney Docket No. 24974-0006001/PT-2592-U

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 27, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application[1] set forth in the amendment filed with the 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.

[1] The relationship of the instant application to prior filed application no. 09/568,481 filed May 9, 2000 has now been perfected.

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 application 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 application. 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 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 copy of a corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3768 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Copy of Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/131,784	04/24/2002	3737	1572	41482/273667	28	59	3

CONFIRMATION NO. 9539

CORRECTED FILING RECEIPT

OC000000010905985

30559
CHIEF PATENT COUNSEL
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

Date Mailed: 09/22/2003

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

James William Huckle, Northallerton, UNITED KINGDOM;
Andrew J. Carter, Acton, MA;
Nicholas J. Cotton, Westboro, MA;
William R. Walsh, Maroubra, AUSTRALIA;
Nelson Scarborough, Andover, MA;
Roger Talish, Hillsborough, NJ;

Domestic Priority data as claimed by applicant

This application is a CIP of 10/096,216 03/11/2002
which is a CON of 09/436,999 11/09/1999 PAT 6,355,006
which is a CON of PCT/US98/02447 02/06/1998
which claims benefit of 60/037,367 02/06/1997
This application 10/131,784
is a CIP of 09/568,481 05/09/2000 PAT 6,432,070
which claims benefit of 60/133,442 05/11/1999

Foreign Applications

If Required, Foreign Filing License Granted: 05/23/2002

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for connective tissue treatment

Preliminary Class

601

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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)
6569010	2003-05-27	10132560	2002-04-25	438P2963

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

SMALL ENTITY

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

LOSS 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	/George R. McGuire/	Date (YYYY-MM-DD)	2011-11-30
Name	George R. McGuire	Registration Number	36603

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES 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. 6569010
Issue Date: May 27,2003
Application No. 10132560
Filed: April 25,2002
Attorney Docket No. 438P990

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

This is a decision on the electronic petition, filed November 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 30,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

MAILED
DEC 14 2011
OFFICE OF PETITIONS

In re Patent No. 6,830,573	:	
Issued: December 14, 2004	:	
Application No. 10/132,608	:	NOTICE
Filed: April 25, 2002	:	
Attorney Docket No. 02071.0011U2	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed November 4, 2011.

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

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

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

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

Telephone 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
DIW Oct-11

Paper No. 17

GREENBERG TRAURIG, LLP (CHI)
77 WEST WACKER DRIVE
SUITE 3100
CHICAGO IL 60601-1732

MAILED

OCT 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,712,205 :
Issue Date: 03/30/2004 :
Application No. 10/132,633 : LETTER
Filing Date: 04/24/2002 :
Attorney Docket No. NKT 2 0053 :

This is a letter in response to the "REQUEST FOR REMOVAL OF SMALL ENTITY STATUS (37 CFR 1.27(g)(2)" filed on September 26, 2011.

The paper is not 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 subject paper is signed on behalf of the assignee, but the showing of record is that the assignee has not taken action in accordance with § 3.71.

Nevertheless, a review of the file reveals that Small entity status does not apply.

It is noted that the request states "Therefore, the 8th year maintenance fee is being paid as a large entity in the amount of $2,480.00." **Receipt of this paper does not serve as authorization for payment of the 8th year maintenance fee.** The maintenance fee must be paid online at the USPTO website or may be paid using the attached form. *The window for payment of the 8 year maintenance fee with a surcharge closes on March 30, 2012.*

The file is being forwarded to Files Repository.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/45

cc: DARRELL K. LANE
AMERICAN SPORTS LICENSING, INC.
1011 CENTRE ROAD
SUITE 339
WILMINGTON DE 198056

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ANN M. LEE
ASSISTANT LABORATORY COUNSEL
LAWRENCE LIVERMORE NATIONAL LABORATORY
P.O. BOX 808, L-703
LIVERMORE CA 94551

MAILED
FEB 09 2011
OFFICE OF PETITIONS

In re Application of	:	Paper No. 6
Joe H. Satcher, Jr. et al.	:	
Application No. 10/132,783	:	NOTICE
Patent No. 6,613,809	:	
Filed: April 24, 2002	:	
Attorney Docket No. **IL-10897**		

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

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **NOT ACCEPTED**.

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

It appears that the petition was not properly signed by a person having authority to prosecute in the above-identified patent. Therefore, the request can not be accepted at this time.

Petitioner's attention is directed to 37 CFR 1.33(b), which states.

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

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

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney /agent who is registered to practice before the U.S. Patent and Trademark Office, or the assignee of the entire interest. If the request is signed by an assignee, the assignee the assignee must comply with the requirements of 37 CFR 3.73(b).

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

AUG 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Daniel F. Filipovic :
Application No. 10/133,917 : DECISION ON PETITION
Filed: April 26, 2002 :
Attorney Docket No. **020157** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 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 December 24, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed September 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 $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay.

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

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

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,656,848 :
Issue Date: December 2, 2003 :
Application No. 10/133,931 : NOTICE
Filed: April 26, 2002 :
Patentee(s): John Scanlan, et. al. :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed on August 22, 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 submitted must be paid at the large entity rate.

Additionally, the request is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Adam Pyonin appearing on the request shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. A courtesy copy of this Notice is being mailed to the address given in the present request.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Adam Pyonin
4650 Cushing Parkway, CA-1
Fremont, CA 94538

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/21/11

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No.: 10133937 Patent No.: 7774143

CofC mailroom date: 11/14/11

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: **Should the changes in fig. 8 be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved** — **All** changes apply.

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

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

Comments: Changes to the specification at Col. 2 and Col. 15 are approved. Changes to Figure 8 are NOT approved as no support for the new figure is found in the originally filed disclosure.

Marjorie A. Moran — 1631

SPE — **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

ACCENTURE INDY 33391
BRINKS HOFER GILSON & LIONE
CAPITAL CENTER, SUITE 1100
201 NORTH ILLINOIS STREET
INDIANAPOLIS IN 46204-4220

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,698,228	:	DECISION ON REQUEST
Gailey et al.	:	FOR
Issue Date: April 13, 2010	:	RECONSIDERATION OF
Application No. 10/134,405	:	PATENT TERM ADJUSTMENT
Filed: April 26, 2002	:	and
Atty Docket No. 10022/169	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition pursuant to 37 C.F.R. § 1.705(d), filed on June 14, 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 nine hundred and thirty-seven (937) 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 eight hundred and twenty-four (824) days is **GRANTED to the extent indicated herein.**

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

This patent issued on April 13, 2010, with a patent term adjustment of 763 days.

The Office has determined that the patent term adjustment for the above-identified patent is **824 days.**

[1] Petition, page 2.

The Office agrees with Patentee that the period of examination delay totals 758 days and the period of applicant delay totals 195 days.[2] Patentee has miscalculated the period of B-delay. A discussion follows.

First, 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 April 27, 2005 and ends on May 29, 2006, the day before the first RCE was filed, which amounts to 398 (not 397)[3] days. See U.S.C. 154(b)(1)(B)(i).

Second, regarding the period of overlap that is subtracted from the over-three-year period, the period between April 26, 2005 and the mailing of a non-final office action on May 20, 2005 is 24 (not 23[4]) days.

Third, a notice of appeal was filed on February 6, 2006, and a Request for Continued Examination (RCE) was filed on May 30, 2006. The 113 days of the over three year period consumed by appellate review, beginning on February 6, 2006 and ending on May 29, 2006, the day before the RCE was filed, is not included in the B delay. See 35 U.S.C. § 154(b)(1)(B)(ii).

As such, the patent term adjustment is increased by 824 (758 days of examination delay plus 261 "B-delay" (398 minus the aforementioned excluded 113 days minus 24 days of overlap) minus 195 days of applicant delay) days, not 937 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office

---

[2] Petition, page 4.
[3] Petition, page 3.
[4] Id.

will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and twenty-four (824) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,698,228 B2

DATED : **April 13, 2010** **DRAFT**

INVENTOR(S) : Gailey 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 763 days

Delete the phrase "by 763 days" and insert – by 824 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. 15

LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON DC 20005-3960

MAILED

OCT 01 2010

OFFICE OF PETITIONS

In re Application of :
Noda et al. : DECISION ON
Application No. 10/134,508 : PETITION
Filed: April 30, 2002 :
Atty Docket No. 401669/Aoyama :

This is a decision on the SECOND RENEWED PETITION FOR REVIVAL OF UNINTENTIONALLY ABANDONED PATENT APPLICATION filed May 28, 2008.

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

The above-identified application became abandoned effective June 4, 2003 for failure to file a response to the non-final Office action mailed March 3, 2003. A Notice of Abandonment was mailed on September 25, 2003.

By decision mailed May 3, 2007, the initial petition to revive filed April 12, 2007 was dismissed. Applicant failed to meet their burden of establishing that the entire delay from the due date of the reply to the filing of the petition was unintentional within the meaning of 37 CFR 1.137(b). The facts and circumstances of the abandonment as set forth on petition raised a question as to whether the abandonment of the application was a deliberately chosen course of action, and thus, not unintentional within the meaning of 37 CFR 1.137(b). By decision mailed February 15, 2008, the renewed petition to revive filed May 18, 2007 was dismissed. Petitioner still did not meet his burden of establishing that the entire delay was "unintentional" within the meaning of 37 CFR 1.137(b).

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this renewed petition, Petitioner has submitted additional statements and evidence to support a conclusion that both the abandonment and the delay in filing a petition were unintentional. Having considered the renewed petition, it is concluded that petitioner has established that the entire period of delay was unintentional within the meaning of 37 CFR 1.137(b). The reply to the outstanding Office action accompanied the petition filed April 12, 2007. The petition fee was also charged to the Deposit Account on petition filed April 12, 2007. No terminal disclaimer is required.

Thus, all requirements of §1.137(b) have now been satisfied.

Technology Center 2851 has been advised of this decision. The application file is being forwarded to the Technology Center for further action in light of this decision, including consideration of the amendment submitted on petition filed April 12, 2007.

Telephone inquiries regarding this decision should be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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
www.uspto.gov

Paper No.

BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

MAILED

JUN 09 2011

OFFICE OF PETITIONS

In re Patent Number: 6,637,908 :
Issue Date: 10/28/2003 :
Application Number: 10/134,526 : NOTICE
Filing or 371(c) Date: 04/30/2002 :
Attorney Docket Number: HUNG3028/EM :

This is a notice regarding your request for acceptance of a fee deficiency submission, which is treated under 37 CFR 1.28, filed on April 28, 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. A change of correspondence address should be filed if the correspondence address needs to be updated.

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

D Wood

Douglas Wood
Attorney
Office of Petitions

cc: LATHROP & GAGE LLP
2345 GRAND BOULEVARD, SUITE 2400
KANSAS CITY MO 64108

UNITED STATES 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. 6972056
Issue Date: December 6,2005
Application No. 10135013
Filed: April 25,2002
Attorney Docket No. ARC-14733-1

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

This is a decision on the electronic petition, filed January 21,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 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.

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)
6972056	2005-12-06	10135013	2002-04-25	ARC-14733-1

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

NOT Small Entity

	Fee	Code
◉	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	/john schipper/	Date (YYYY-MM-DD)	2011-01-21
Name	John F. Schipper	Registration Number	26994

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-10

Paper No. 6

RICHARD W. GOLDSTEIN
2071 CLOVE ROAD
STATEN ISLAND NY 10304

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Patent No. 6,487,867 :
Issue Date: 12/03/2002 :
Application Number: 10/135,129 : DECISION ON PETITION
Filing Date: 04/29/2002 :
Attorney Docket Number: 11340C :

This is a decision on the petition under 37 CFR 1.378(b),[1] filed on July 1, 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 reconsideration or review of the matter will be undertaken by the Director.

The patent issued on December 3, 2002. The first maintenance fee could have been paid during the period from December 3, 2005,

---

[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.

through June 5, 2006, or, with a surcharge, during the period from June 6, through December 3, 2006. The patent expired at midnight on December 3, 2006, for failure to timely pay the first maintenance fee.

Petitioner states that the delay in the payment of the maintenance fee resulted from petitioner's home and business were destroyed as a result of Hurricane Rita's striking petitioner's home in Louisiana on September 24, 2005.

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.[2] 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.[3] In view of In re Patent No. 4,409,763,[4] this same standard will be applied to determine whether "unavoidable" delay within the meaning of 37 CFR 1.378(b) occurred.

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".[5] 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."[6] This determination is to be made on a "case-by-case basis, taking all the facts and circumstances into account."[7] 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.[8]

---

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

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

[4] 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).

[5] 35 U.S.C. § 41(c)(1).

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

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

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

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 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.[9] That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the first maintenance fee for this patent.[10]

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.[11]

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

With regards to period (1), petitioner must explain whether the inventor or his patent attorney, were responsible for tracking and payment of the maintenance fee, and explain in detail the system in place for tracking and paying the maintenance fees prior to Hurricane Rita.

Further, if petitioner maintained the system of tracking and paying the maintenance fee at a location impacted by Hurricane Rita, petitioner must provide a documented showing supporting that the place he maintained his patent maintenance fee information was destroyed as a result of Hurricane Rita. Petitioner should provide information including, but not limited

---

[9] Ray, 55 F.3d at 609, 34 USPQ2d at 1788.
[10] Id.
[11] See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131 at 53158 (October 10, 1997).

to, insurance reports, police reports, and an official declaration of a natural disaster in the location of petitioner's business and/or home by local, state, or federal authorities.

Further, petitioner should explain in detail when he contacted his patent attorney concerning the subject patent. A through explanation should be presented of the efforts to contact petitioner's patent attorney to determine whether any maintenance fees were due for the subject patent.

Still further, if petitioner's patent attorney was responsible for tracking and paying the maintenance fees, petitioner's counsel must provide a detailed showing of the tracking system used to advise counsel when the maintenance fee was due, and what efforts were taken to notify petitioner that the maintenance fee was due.

In regards to period (2), above, petitioner must show diligence in filing the subject petition after learning that the subject patent had expired. Specifically, petitioner must explain in detail when he learned that the subject patent had expired, and provide a documented showing that any delay between petitioner learning that the patent had expired and the filing of the subject petition, was unavoidable.

In summary, while the Office is mindful of petitioner's predicament, in the absence of a showing of unavoidable delay, the Office cannot provide the requested relief.

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.

The address in the petition is different than the correspondence address. A change of correspondence address should be filed if the correspondence address needs to be updated. 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.

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

Cf:

RICHARD W. GOLDSTEIN
34 DUMONT AVENUE
STATEN ISLAND NY 10305-1450

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)
6,581,523	2003-06-24	10/135,248	2002-04-30	26485.00

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

SMALL ENTITY

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

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

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

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

SURCHARGE

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

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

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

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

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

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

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

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

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

○ A sole patentee

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

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

○ The assignee of record of the entire interest

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	/Jacob G. Horton/	Date (YYYY-MM-DD)	2011-06-28
Name	Jacob G. Horton	Registration Number	60876

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6581523
Issue Date: June 24,2003
Application No. 10135248
Filed: April 30,2002
Attorney Docket No. 26485.00

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

This is a decision on the electronic petition, filed June 28,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 28,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NALCO COMPANY
1601 W. DIEHL ROAD
NAPERVILLE IL 60563-1198

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Application of :
Andrew J. Cooper et al. :
Application No. 10/135,317 : ON PETITION
Filed: April 30, 2002 :
Attorney Docket No. 7680 :

This is a decision on the petition filed March 2, 2011 under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of June 1, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). Accordingly, the date of abandonment of this application is September 2, 2010. A Notice of Abandonment was mailed on December 21, 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 (1).

As to item 1, the amendment filed on March 2, 2011, does not *prima facie* place the application in condition for allowance, therefore the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See attached courtesy copy of the advisory action.

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 Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/135,317	Applicant(s) COOPER ET AL.	
	Examiner Sharidan Carrillo	Art Unit 1711	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 March 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-15 and 31-33.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Sharidan Carrillo/
Primary Examiner, Art Unit 1711

Continuation of 11. does NOT place the application in condition for allowance because: The After-Final Amendment will not be entered because it raises new issues that would require further search and consideration..

UNITED STATES PATENT AND TRADEMARK OFFICE

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

NALCO COMPANY
1601 W. DIEHL ROAD
NAPERVILLE IL 60563-1198

MAILED

JUN 06 2011

OFFICE OF PETITIONS

In re Application of :
Andrew J. Cooper et al. :
Application No. 10/135,317 : ON PETITION
Filed: April 30, 2002 :
Attorney Docket No. 7680 :

This is a decision on the renewed petition filed May 20, 2011 under the unintentional provisions of 37 CFR 1.137(b), 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 final Office action mailed, June 1, 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 September 2, 2010. A Notice of Abandonment was mailed on December 21, 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 (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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

This application is being referred to Technology Center AU 1711 for appropriate action by the Examiner in the normal course of business on the reply received May 20, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/02/11

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 10135447 Patent No.: 7067649

CofC mailroom date: 04/27/11

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/SPE response to 571-273-3421

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: Inventorship change to add Eyal Breitbart and Nira Bloom as inventors is granted under 37 CFR §1.324 as a Petition, filed 4/27/11.

Ardin H. Marschel 8/4/11
ARDIN H. MARSCHEL
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE
Certificate

Patent No. 7,067,649 B2 Patented: June 27, 2006

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

Accordingly, it is hereby certified that the correct inventorship of this patent is: Dror Harats, Ramat Gan (IL); Eyal Breitbart, Hashmonaim (IL); and Nira Bloom, Hod-HaSharon (IL).

Signed and Sealed this Sixth Day of September 2011.

ARDIN H. MARSCHEL
Supervisory Patent Examiner
Art Unit 1636
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

MAILED

AUG 22 2011

OFFICE OF PETITIONS

LINDA B. LUDWIG, M.D.
861 Main Street
East Aurora NY 14052

In re Application of :
LINDA B. LUDWIG :
Application No. 10/135,545 :
Filed: April 30, 2002 : DECISION ON PETITION
Attorney Docket No. 25125.0001 : UNDER 37 C.F.R. § 1.137(B)
Title: HIV ANTISENSE PROTEINS :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 8, 2011, 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 within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed July 22, 2010, which set a shortened statutory period for reply of three months. An after-final amendment was received on November 12, 2010 along with a one-month extension of time, and an advisory action was mailed on December 14, 2010. No additional extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on November 23, 2010. A notice of abandonment was mailed on February 9, 2011.

On August 8, 2011, Petitioner filed a Request for Continued Examination (RCE) along with the associated fee, an amendment, the petition fee, and the proper statement of unintentional delay. The amendment filed on August 8, 2011 has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

1 See Rule 1.137(d).

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment submitted on August 8, 2011 - 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

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

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)
6502417	2003-01-07	10135606	2002-04-30	80710-1012

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

SMALL ENTITY

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

LOSS 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	/M.PaulQualey,Jr./	Date (YYYY-MM-DD)	2011-03-15
Name	M. Paul Qualey, Jr.	Registration Number	43024

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

Privacy Act Statement

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

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

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

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

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

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

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

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

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

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

9. A record from this system of records may be disclosed, as a routine use, 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. 6502417
Issue Date: January 7,2003
Application No. 10135606
Filed: April 30,2002
Attorney Docket No. 80710-1012

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

This is a decision on the electronic petition, filed March 15,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 15,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

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

PAGE 1/2 * RCVD AT 6/21/2011 8:30:30 AM [Eastern Daylight Time] * SVR:W-PTOFAX-001/12 * DNIS:2709990 * CSID: * DURATION (mm-ss):00-46

Application 10/136,350

RECEIVED
CENTRAL FAX CENTER
JUN 21 2011

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/18/11

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 10136350 Patent No.: 7405842

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.

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

Comments: _____

_____

_____

06/21/2011 08:30 FAX 001/002

For Application 10/134,350

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Primary Examiner
AU 2425

MARK ZIMMERMAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2400

SPE Art Unit 2425

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Patent No. : 7,163,918 B2
Ser. No. : 10/136,433
Inventor(s) :Piccariello et al.
Issued : Jan. 16, 2007
Title : IODOTHYRONINE COMPOSITIONS
Docket No. : 085199-0211
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid,* including after issuance of the patent.

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

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1. 17(i) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JENKINS, WILSON, TAYLOR & HUNT, P.A.
3100 TOWER BLVD.
SUITE 1200
DURHAM NC 27707

MAILED

FEB 22 2011

OFFICE OF PETITIONS

In re Patent No. 7,239,628	:	
Issue Date: July 3, 2007	:	
Application No. 10/136,508	:	NOTICE
Filed: May 1, 2002	:	
Attorney Docket No. 1497/119/5/2 CIP	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NEVMET CORPORATION
1135 TERMINAL WAY
RENO NV 89502-2168

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Patent No. 6,969,392
Issue Date: 29 November, 2005
Application No. 10/136,548
Filed: 1 May, 2002
Attorney Docket No. (None)

DECISION ON PETITION

This is a decision on the petition filed on 21 January, 2010, properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

NOTE: *The address on the petition is somewhat different (more detailed) than that of record.*

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition and fee were submitted by the averred President of the assignee of record.

BACKGROUND

Patent No. 6,969,392 (the '392 patent) issued on 29 November, 2005. The first maintenance fee could have been paid during the period from 29 November, 2008, through midnight 29 May, 2009, or, with a surcharge, during the period from 30 May, 2009, through midnight 29 November, 2009. Accordingly, the patent expired after midnight 29 November, 2009, for failure to pay timely the first maintenance fee.

Patent No. 6,969,392
Application No. 10/136,548

The instant petition was filed on 21 January, 2010. Because the petition was submitted within twenty-four months after the six-month grace period provided in 37 C.F.R. §1.362(e), the petition was timely filed under the provisions of 37 C.F.R. §1.378(c).

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

The maintenance fee is hereby accepted—the appropriate fees were submitted *via* check—and the above-identified patent is reinstated as of the mail date of this decision.

The patent file is being returned to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc
NEVMET CORPORATION
1135 TERMINAL WAY/STE. 209
RENO NV 89502-2168

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Application of	:	
Darrell KRULCE	:	
Application No. 10/137,042	:	DECISION ON PETITION
Filed: April 30, 2002	:	
Attorney Docket No. 010435	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 05, 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.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 10, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 10, 2010. Accordingly, the date of abandonment of this application is March 11, 2011.

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 (1).

The Office recognizes that the petitioner filed a Request for Continued Examination as a response to the Notice of Allowance mailed December 10, 2010; however the issue and publication fees must be paid as a condition for revival.

The request to apply the issue fee to the Notice may be satisfied by completing and returning the Issue Fee Transmittal Form PTOL-85b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee to the application identified above.

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) 272-4231.

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

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

SEP 13 2011

OFFICE OF PETITIONS

In re Application of	:	
Darrell KRULCE	:	
Application No. 10/137,042	:	DECISION ON PETITION
Filed: April 30, 2002	:	
Attorney Docket No. 010435	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 02, 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 March 10, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed December 10, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 11, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) 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; (3) the petition fee of $1,620.00; and (4) a proper statement of unintentional delay. Accordingly, the issue and publication fee payments are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2432 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

BANNER & WITCOFF, LTD
ATTORNEYS FOR CLIENT 004770
1100 13TH STREET
SUITE 1200
WASHINGTON DC 20005-4051

MAILED
JUN 06 2011
OFFICE OF PETITIONS

In re Application of	:	
Trossen et al.	:	DECISION ON APPLICATION
Application No. 10/137,340	:	FOR
Filed: May 3, 2002	:	PATENT TERM ADJUSTMENT
Atty Docket No. 005288.00037	:	

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed December 9, 2010. Applicants request that the initial determination under 35 USC 154(b) be corrected from four hundred ninety-four (494) days to a total of at least one thousand nine hundred eighty-four (1984) days. Prior to a decision being issued, the above-identified application issued as a patent with a revised patent term adjustment of two thousand six hundred seventy-three (2,673)[1] days.

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 thousand six hundred twenty-eight (2,628) days.

On September 9, 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

[1] It is noted that the patent term adjustment indicated on the patent is greater in part because both the undersigneds' at initial review of this petition and the Computers' correction were entered. The undersigned had to wait until issuance of the patent to see the consequence and to correct.

adjustment (PTA) to date is 494 days. On December 9, 2010, applicants timely[2] submitted an application for patent term adjustment (with required fee). Applicants assert that the patent term adjustment 1) does not account for the delay caused by successful appellate review under 37 C.F.R. §§ 1.702(e) and 1.703(e), 2) incorrectly attributes 194 days of applicant delay to the filing of IDSs on March 8, 2007 and February 22, 2008, and 3) does not account for the number of days beyond three years from the filing date that the application will issue into a patent, under 37 C.F.R. §1.703(b).

Applicants state that the application is not subject to a terminal disclaimer.

Applicants are correct that additional patent term adjustment is warranted for successful appellate review. Pursuant to 35 U.S.C. 154(b)(1)C(iii) and 37 CFR 1.702(e), a patent is entitled to patent term adjustment if the issuance of the patent was delayed by successful appellate review under 35 U.S.C. 134, 141 or 145. 37 CFR 1.703(e) provides that the period of adjustment under § 1.702(e) is the sum of:

> the number of days, if any, in the period 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 § 1.191 and ending on the date of a final decision in favor of the applicant by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145.

In this instance, a notice of appeal was filed on November 30, 2006 and a decision by the Board of Patent Appeals and Interferences on request for rehearing, reversing all grounds for rejection of at least one claim was issued on June 18, 2010. Accordingly, the period of adjustment delay caused by successful appellate review is 1297 days (e.g., beginning on November 30, 2006 and ending on June 18, 2010).

However, the Office erred in entering an additional period of adjustment of 74 days for Office delay in mailing an Examiner's answer on July 30, 2007, more than four months after the filing of an appeal brief on January 17, 2007. First of all, the

---

[2] PALM records indicate that the Issue Fee payment was also received on December 9, 2010.

appeal brief filed January 17, 2007 was defective. The Office delay pursuant to 37 CFR 1.703(a)(4) is based on delay by the Office in the mailing of an examiner's answer more than four months after the date an appeal brief in compliance was filed. An amended appeal brief was filed on April 11, 2007. As the examiner's answer was filed within 4 months of the filing of a compliant appeal brief, there was no Office delay within the meaning of 37 CFR 1.703(a)(4). Moreover, even if the appeal brief had been compliant, applicant cannot earn Office delay for both the successful appellate review and 37 CFR 1.703(a)(4). These periods are overlapping and thus, applicant would receive the greater period of 1279 days for successful appellate review.

Moreover, applicants assert that the patent term adjustment incorrectly attributes 194 days of applicant delay to the filing of Information Disclosure Statements on March 8, 2007 and February 22, 2008. Applicants argue that both IDSs were filed based on recently-received communications from foreign patent offices, and both were filed within three months of filing the respective IDS. Preliminarily, it is noted that the record only shows that a period of reduction of 144 days was entered for the filing of the IDSs. Although applicants' argument is not persuasive, a review of the entries supports a conclusion that the IDSs filed during appellate review were not filed under circumstances that constitute a "failure to engage." In view thereof, entry of the period of reduction of 144 days has been removed.

Finally, the period of delay for the Office taking in excess of three years to issue the patent is 717 days. The Office took three years and 2142 days (May 4, 2005 to March 15, 2011) to issue the patent. However, 1297 of these days are excluded from the "B delay" as accorded for successful appellate review. In addition, 28 of the days (May 4, 2005 to June 27, 2005) overlap with the 725-day period accorded for Office delay in issuing the first Office action on June 27, 2005. Thus, the "B delay" is 717 (2142 - 1297 - 28) 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 thousand six hundred twenty-eight (2,628) days (A delay = 725 days, B delay = 845 days, Overlap = 28 days, and C delay = 1297 days - Applicant delay of 111 (19 + 92) 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
Office of Associate Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,908,378 B2

DATED : **March 15, 2011** **DRAFT**

INVENTOR(S) : Trossen 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 2673 days

Delete the phrase "by 2673 days" and insert – by 2628 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

JONES DAY
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES CA 90071

MAILED
OCT 11 2011
OFFICE OF PETITIONS

In re Patent No. 6,974,464
Issue Date: December 13, 2005
Application No. 10/137,637
Filed: May 2, 2002
Attorney Docket No. QNT-2

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 22, 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**.

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.

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. If appropriate the proper power attorney documents should also be submitted.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Sterne Kessler Goldstein Fox
1100 New York, N.W.
Washington, D.C. 20005-3934

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

MAILED

SEP 17 2010

OFFICE OF PETITIONS

In re Patent of Gary Allen Kemp II et al. :
Patent No. 7,437,325 :
Issue Date: October 14, 2008 :
Application No. 10/137,979 :
Filing Date: May 3, 2002 :
Attorney Docket No. 02-184-A :

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT

This is a decision on the "Request for Reconsideration of Patent Term Adjustment Under 37 C.F.R. 1.705 (b)-(d)" filed November 25, 2008, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand eight hundred forty (1840) days. The Office regrets the delay in the issuance of the instant decision.

The petition is **dismissed**.

37 C.F.R. § 1.705(d) states a request under 37 C.F.R. § 1.705(d) must comply paragraph (b)(1) of the rule, which requires the submission of the fee set forth in 37 C.F.R. § 1.18(e). Therefore, a request under 37 C.F.R. § 1.705(d) must include the fee set forth in 37 C.F.R. § 1.18(e).

The instant petition was not filed with the $400 fee set forth in 37 C.F.R. § 1.18(e) and does not include authorization to charge the fee to a deposit account. Therefore, the petition must be dismissed.

If Patentees wish for the Office to consider the merits of the petition, a request for reconsideration and the required $400 fee must be submitted within **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision. Extensions of time will NOT be granted under 37 C.F.R. § 1.136(a). The reconsideration request should include a cover letter titled "Request for Reconsideration Under 37 C.F.R. § 1.705(d)."

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.PTA**" should be used if the request is filed electronically.

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

FEB 24 2011

OFFICE OF PETITIONS

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Patent of Gary Allen Kemp II et al.	:	DECISION ON REQUEST
Patent No. 7,437,325	:	FOR RECONSIDERATION OF
Issue Date: October 14, 2008	:	PATENT TERM ADJUSTMENT
Application No. 10/137,979	:	AND NOTICE OF INTENT TO
Filing Date: May 3, 2002	:	ISSUE CERTIFICATE OF
Attorney Docket No. 02-184-A	:	CORRECTION

This is a decision on the petition filed September 24, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by eight hundred forty (840) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by eight hundred forty (840) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 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 patent is extended or adjusted by **eight hundred forty (840)** 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.	:	7,437,325 B2
APPLICATION NO.	:	10/137,979
DATED	:	October 14, 2008
INVENTOR(S)	:	Gary Allen Kemp II 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 1357 days.

Delete the phrase "by 1357 days" and insert -- by 1840 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

MAILED
MAY 02 2011
OFFICE OF PETITIONS

WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

In re Application of :
WOHLSTADTER :
Application No. 10/138,038 : ON PETITION
Filed: May 3, 2002 :
Attorney Docket No. W00538/70005 TJO :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 11, 2011, 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 6, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 7, 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 $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on March 11, 2011, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 23-2825.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center 3684 for further processing in the normal course of business.

/Diane C. Goodwyn/
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
Alexandria, VA 22313-1450
www.uspto.gov

MAYER BROWN, LLP
PO BOX 2828
CHICAGO, IL 60690

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of
Emmanuelle Sauvage, et al.
Application No. 10/138,511
Filed: May 6, 2002
Attorney Docket No. P 0291169 50928/USW

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

UNITED STATES 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

JAN 11 2011

OFFICE OF PETITIONS

In re Patent No. 6,908,424
Issued: June 21, 2005
Application No.: 10/138,520
Filed: May 6, 2002
Attorney Docket No: **10931.0004-03**

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/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

MAILED

SEP 08 2010

OFFICE OF PETITIONS

ALBEMARLE CORPORATION
PATENT DEPARTMENT
451 FLORIDA STREET
BATON ROUGE LA 70801

In re Patent No. 7,578,968
Issued: August 25, 2009
Application No. 10/138,664
Filed: May 3, 2002
Dkt. No.: BR-7256

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the petition filed May 21, 2010 requesting that the patent term adjustment be increased from 1,378 days to 1,459 days.

The petition to correct 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 1,580 days.

The patent is entitled to an overall adjustment of 1,049 days pursuant to 37 CFR 1.703(a) (616 days under § 1 1.703(a)(1) + 127 days under § 1.703(a)(5) + 46 days under § 1.703(a)(2) + 260 days under § 1.703(a)(6)).

The patent is entitled to an overall adjustment of 1,575 days pursuant to 37 CFR 1.703(b), from May 4, 2005 to August 25, 2009.

However, the patent is not entitled to adjustment under 37 CFR 1.703(b) for the period of time beginning on the date that the Notice of Appeal was filed, June 29, 2006, and ending on the date that the non-final Office action was mailed in response thereto on July 27, 2007, or 394 days. See, 37 CFR 1.703(b)(4).

Furthermore, to the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under 37 CFR 1.703 shall not exceed the actual number of days the issuance of the patent was delayed. See, 37 CFR 1.703(f). A total of 433 days of the adjustment pursuant to 37 CFR 1.703(a) and (b) overlap (127 days from March 23, 2007 to July 27, 2007 + 46 days from March 28, 2008 to May 12, 2008 + 260 days from December 9, 2008 to August 25, 2009).

Although patentees acknowledge an applicant delay of 337 days, the adjustment is properly reduced a total 217 days, not 337 days, for applicant delays. The reduction of 120 days has been restored as the submission of an application for patent term adjustment on August 12, 2008 is not considered a failure to engage in reasonable efforts to conclude prosecution or processing.

In view thereof, the patent is entitled to an overall adjustment of 1,580 days (1,049 days under § 1.702(a) + 1,575 days under § 1.702(b) - 394 under § 703(b)(4) – 433 overlapping days pursuant § 1.703(f) – 217 days of applicant delay under § 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 the submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

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, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

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 1,580 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
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

CC: Mary Drabnis
301 Main St., 14th Fl.
Baton Rouge, LA 70802

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,578,968

DATED : **August 25, 2009** **DRAFT**

INVENTOR(S) : Nalepa, 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 1,378 days

Delete the phrase "by 1,378 days" and insert – by 1,580 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)
7058439	2006-06-06	10138735	2002-05-03	5731-00200

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Eric B. Meyertons/	Date (YYYY-MM-DD)	2012-04-17
Name	Eric B. Meyertons	Registration Number	34876

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7058439
Issue Date: June 6,2006
Application No. 10138735
Filed: May 3,2002
Attorney Docket No. 5731-00200

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 17,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of April 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : September 28, 2010

TO SPE OF : ART UNIT 2627
SUBJECT : Request for Certificate of Correction for Appl. No/10/138737 /pat. RE41022

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.
X **Denied**	State the reasons for denial below.

Comments: There is no error in the patent with respect to prosecution. The examiner can not further prosecute the application once it has matured into a patent, which applicant is asking now.

Formatted: Indent: Left: 88 pt

Deleted: _¶

Formatted: Font: 10 pt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : September 28, 2010

TO SPE OF : ART UNIT 2627
SUBJECT : Request for Certificate of Correction for Appl. No/10/138737 /pat. RE41022

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.
X **Denied**	State the reasons for denial below.

Comments: There is no error in the patent with respect to prosecution. The examiner can not further prosecute the application once it has matured into a patent, which applicant is asking now.

/Hoa T. Nguyen/ 2627
SPE **Art Unit**

Formatted: Indent: Left: 88 pt

Deleted: _¶

Formatted: Font: 10 pt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101014

DATE : October 14, 2010

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: RE41,022

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:

1) The correction of inventor name (Toshiyuki Shimada, Kadoma (JP)) is approved.
2) The request for consider IDS is NOT approved. There is no error in the patent with respect to prosecution. The Examiner can not further prosecute the application once it has matured into a patent, which is applicant is asking now.

/HOA T NGUYEN/
Supervisory Patent Examiner, Art Unit 2627

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101014

DATE : October 14, 2010

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: RE41,022

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:

1) The correction of inventor name (Toshiyuki Shimada, Kadoma (JP)) is approved.
2) The request for consider IDS is NOT approved. There is no error in the patent with respect to prosecution. The Examiner can not further prosecute the application once it has matured into a patent, which is applicant is asking now.

/HOA T NGUYEN/
Supervisory Patent Examiner, Art Unit 2627

UNITED STATES 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

JUL 27 2011

OFFICE OF PETITIONS

VERN MAINE & ASSOCIATES
547 AMHERST STREET, 3RD FLOOR
NASHUA NH 03063-4000

In re Application of :
Mohan Chandra et al. :
Patent No. 6,651,014 : NOTICE
Application No. 10/138,835 :
Filed: May 03, 2002 :
Attorney Docket No. **GT11-US**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 July 14, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09-13-2010

TO SPE OF : ART UNIT 3653

SUBJECT : Request for Certificate of Correction for Appl. No: 10/139104 Patent No 7747344

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (Co f C)
Randolph Square – 9D10-A
Palm Location 7580

Should request be entered? EvaJames

Certificates of Correction Branch

703-756-1583 _____

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.

_____

_____

_____

_____

_____

/Stefanos Karmis/ — **SPE**

3653 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : **11/22/10**

TO SPE OF : ART UNIT **2881 Attn: KIM ROBERT H (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/139241** Patent No.: **7645983**

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 Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Please check Foreign Application Priority Data

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1593

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: _____

_____

_____

_____

_____

Robert Kim _____**2881**_
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

FREEDMAN & ASSOCIATES
55 MURRAY STREET
SUITE 230
OTTAWA ON K1N 5M3CA
CANADA

MAILED
OCT 24 2011
OFFICE OF PETITIONS

In re Patent No. 6,637,063 :
Issue Date: October 28, 2003 :
Application No. 10/139,376 : NOTICE
Filed: May 7, 2002 :
Attorney Docket No. 12M-29 US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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: Stewart 10 (GM)-US-NP	Patent Number: 7,668,899
Filing Date (or 371(b) or (f) Date): May 7, 2002	Issue Date: February 23, 2010
First Named Inventor: Gilbert Mark Stewart	
Title: Decoupled routing network method and system	

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 /Gregory J. Murgia/	Date August 10, 2010
Name (Print/Typed) Gregory J. Murgia	Registration Number 41,209

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

Carmen Patti Law Group, LLC
One N. LaSalle Street
44th Floor
Chicago, IL 60602

Mail Date: 08/17/2010

Applicant	: Gilbert Mark Stewart	: DECISION ON REQUEST FOR
Patent Number	: 7668899	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/140,150	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/07/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1181** 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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 18, 2006

TO SPE OF : ART UNIT 1763

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/140324 Patent No.: 7,008,484 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Elisha Evans
Certificates of Correction Branch

703-308-9390 ext. 110

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: Approved.

/Parviz Hassanzadeh/ 1716

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

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
SEP 02 2010
OFFICE OF PETITIONS

In re Patent of Davis	: DECISION ON REQUEST FOR
Patent No. 7,468,975	: RECONSIDERATION OF
Issue Date: December 23, 2008	: PATENT TERM ADJUSTMENT
Application No. 10/140,752	: AND NOTICE OF INTENT TO ISSUE
Filed: May 6, 2002	: CERTIFICATE OF CORRECTION
Atty. Docket No. 019959-004400US	:

This is a decision on the petition filed on February 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand seven hundred forty-three (1743) 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 seven hundred forty-three (1743) days is **GRANTED to the extent indicated herein**.

Patentees' assertion of 1743 days of patent term adjustment is derived from the following formula: 1059 days A Delay plus 1327 days B Delay minus 377 days overlap minus 266 days Applicant Delay (petition 3rd page).

The period of A Delay is 1078 days, not 1059. Patentees assertion of 1059 days of A delay does not take into consideration the 19 days adjustment, beginning on December 5, 2008 and ending on December 23, 2008, for the delayed issuance of the patent, per 37 CFR 1.703(a)(6).

Patentees correctly calculate the maximum period of delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay") as 1327 days, beginning on May 7, 2005 and ending on December 23, 2008. However, patentees fail to subtract the *full* number of overlapping days already accounted for under 35 U.S.C. § 154(b)(1)(A) ("A Delay"). Patentees fail to subtract the 12 day overlapping period of delay beginning on January 13, 2008 and ending on January 24, 2008. Patentees fail to subtract the 19 day overlapping period of delay beginning on December 5, 2008 and ending on December 23, 2008. Therefore, the total overlapping period is 408 days (377 + 12 + 19), not 377 days.

Patentees assert Applicant delay is 266 days, which includes patentee's disclosure of an additional period of reduction of 76 days, pursuant to 37 CFR 1.704(c)(8), for an Information Disclosure Statement filed July 8, 2008.

The Office concurs that a 76 day period of reduction is in order. After applicants filed a reply on April 23, 2008 to a non-final Office action, applicants submitted supplemental replies or papers in the form of Information Disclosure Statements (IDSs) on June 6, 2008, June 17, 2008, and July 8, 2008. The record does not support a conclusion that the examiner expressly requested the filing of the IDSs. Further, a review of the IDSs reveals that applicants did not include a statement under 37 CFR 1.704(d).[1] Thus, applicants failed to engage in reasonable efforts to conclude prosecution of the application. The period of adjustment should have been reduced by 76 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply was filed, April 24, 2008, and ending on the date that the last IDS was filed, July 8, 2008. Accordingly, a period of reduction of 76 days will be entered.

A review of the patent term adjustment calculations for the application reveals an additional basis for reduction. A Communication Regarding Miscited Reference in a Previously Filed IDS was filed on August 15, 2008, after the mailing of the Notice of Allowance on July 24, 2008. This is properly a basis for reduction of patent term adjustment pursuant to § 1.704(c)(10).

> 37 CFR § 1.704(c)(10) provides that:
>
> 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;

---

[1] Pursuant to 37 CFR § 1.704(d):

> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

MPEP 2732 states, in pertinent part:

> 37 CFR 1.704(c)(10) establishes 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. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

The period of reduction is properly calculated as four months or (120) days, because the communication was filed on August 15, 2008 and it was never explicitly addressed by the examiner in any correspondence mailed to applicants. The date of issuance is more than 120 days after the communication's filing date. Therefore, a period of reduction of 120 days will be entered.

The total period of Applicant delay is 386 days (56 + 29 + 51 + 54 + 76 + 120).

Accordingly, the correct patent term adjustment is **one thousand six hundred eleven (1611) days** (1078 days A Delay minus 1327 days maximum B Delay minus 408 overlapping days minus 386 days 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 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 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 six hundred eleven (1611) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

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 : 7,468,975 B1

DATED : **December 23, 2008** **DRAFT**

INVENTOR(S) : Davis

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 1137 days

Delete the phrase "by 1137 days" and insert – by 1611 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

MARY GOULET
Whitham Curtis and Christofferson PC
11491 Sunset Hills Rd Ste 340
Reston, VA 20190

MAILED

DEC 14 2010

OFFICE OF PETITIONS

In re Patent No. 6,893,452 :
Issue Date: May 17, 2005 : ON PETITION
Application No. 10/140,897 :
Filed: May 6, 2002 :
Attorney Docket No. 235692000101 :

This is a decision on the petition under 37 CFR 1.378(c), filed November 18, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is GRANTED.

This patent expired on May 17, 2009 for failure to pay the 3.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the correspondence address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/141,033	05/07/2002	Shuji Mori	H042.1.2	8688

27734 7590 06/10/2011

PHILIP J. POLLICK
183 Irving Way W
COLUMBUS, OH 43214-3618

EXAMINER	
LOBO, IAN J	

ART UNIT	PAPER NUMBER
3662	

MAIL DATE	DELIVERY MODE
06/10/2011	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 10 2011

PHILIP J. POLLICK
183 Irving Way W
COLUMBUS OH 43214-3618

In re Application of:
Shuji Mori
Appl. No.: 10/141,033
Filed: May 7, 2002
For: METHOD OF DETERMINING PETROLEUM LOCATION

: PETITION TO WITHDRAW
: HOLDING OF ABANDONMENT
: UNDER 37 CFR 1.181(a)
:
:

This is a decision on the petition under 37 CFR 1.181(a) filed on May 25, 2011 requesting that the Notice of Abandonment of May 12, 2011 be withdrawn.

The Petition is **GRANTED.**

After review of the above file, the file history shows a decision was rendered by the Board of Patent Appeals and Interferences affirming-in-part the Examiner on March 10, 2011 and setting a 2 month period for response to a new grounds of rejection. The examiner mailed a notice of abandonment on May 12, 2011 without taking into consideration applicant's response to the new grounds of rejection filed May 10, 2011.

The notice of abandonment of May 12, 2011 has been vacated. Applicant's response filed May 10, 2011 is being forwarded to the examiner for consideration.

Any questions regarding this decision should be directed to Supervisory Patent Examiner Thomas H. Tarcza at 571-272-6979.

Katherine Matecki

Katherine A. Matecki, Director
Technology Center 3600
571-272-5250

tt: 6/2/11

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
DW Feb-11

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND OH 44114-3108

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Patent No. 6,974,587 :
Issue Date: 12/13/2005 :
Application Number: 10/141,300 : ON PETITION
Filing Date: 05/08/2002 :
For: INTRARUMINAL DEVICE :
:

This is a decision on the petition under 37 CFR 1.378(c), filed November 17, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on December 13, 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.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in paying the maintenance fee was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The address in the petition is different than the correspondence address. A courtesy copy of this decision is being mailed to the address in the petition. All future correspondence, however, will be mailed solely to the address of record. A change of

correspondence address must be filed if the correspondence address needs to be changed. If petitioner desires to receive any Maintenance Fee correspondence which **may** be mailed, a "Fee Address" Indication forms should be filed.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Cc: BOSE MCKINNEY & EVANS LLP
111 MONUMENT CIRCLE, SUITE 2700
INDIANAPOLIS IN 46204

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

King and Spalding LLP
1700 Pennsylvania Ave, NW
Suite 200
Washington DC 20006

MAILED
SEP 30 2011
OFFICE OF PETITIONS

In re Patent No. 7,664,956	:
Daniel Goodman	: DECISION DISMISSING PETITION
Issue Date: February 16, 2010	: UNDER 37 CFR 1.55(c)
Application No. 10/141,308	: and
Filed: May 7, 2002	: ON REQUEST FOR CERTIFICATE
Title:	: OF CORRECTION
METHOD AND SYSTEM FOR REAL-TIME CONTROL OF DOCUMENT PRINTING	:

This is a decision on the PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 37 C.F.R. 1.55(c) AND REQUEST FOR CERTIFICATE OF CORRECTION, filed August 25, 2011, to add benefit claims to Israeli Patent Application Nos. 124895 filed June 14, 1998, 127093 filed November 16, 1998 and 127869 filed December 30, 1998, by way of issuance of a certificate of correction.

As stated in MPEP 201.16,

> A certificate of correction under 35 U.S.C. 255 and 37 CFR 1.323 may be requested and issued in order to perfect a claim for foreign priority benefit in a patented continuing application if the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR 1.55(a) are met. Furthermore, if the continuing application (other than a design application), which issued as a patent, was filed on or after November 29, 2000, in addition to the filing of a certificate of correction request, patentee must also file a petition for

an unintentionally delayed foreign priority claim under 37 CFR 1.55(c)[1].

Patentee states that with respect to IL 127093 and 127869 the requirements of 35 U.S.C. 119(a)-(d) were satisfied in parent application No. 09/397,331 (now U.S. Patent No. 6,298,446) prior to issuance of the patent. Patentee states that with respect to IL 124895 the requirements of 35 U.S.C. 119(a)-(d) were satisfied in parent application No. 09/313,067 (now U.S. Patent No. 6,209,103) prior to issuance of the patent. This application is a continuing application of the '331 and '067 applications. A review of the '103 patent confirms that it issued on March 27, 2001 with the foreign priority benefit thereon. By certificate of correction signed September 27, 2011, the '446 patent was corrected to include the foreign priority benefit thereon to all three Israeli applications.

Accompanying the petition to accept the delayed claim of priority is a certificate of correction setting forth the requested foreign priority claim and payment of the certificate of correction processing fee.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require

[1] However, a claim to foreign priority benefits cannot be perfected via a certificate of correction if the requirements of 35 U.S.C. 119(a)-(d) or (f) had not been satisfied in the patented application, or its parent, prior to issuance and the requirements of 37 CFR 1.55(a) are not met. In this latter circumstance, the claim to foreign priority benefits can be perfected only by way of a reissue application in accordance with the rationale set forth in Brenner v. State of Israel, 158 USPQ 584.

additional information where there is a question whether the delay was unintentional); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application filed February 16, 2010, was filed after November 29, 2000. The petition includes a claim for priority to foreign application/patent No. IL 124895, filed June 14, 1998; 127093 filed November 16, 1998; and 127869 filed December 30, 1998. Moreover, the petition includes payment of the surcharge and a proper statement of unintentional delay. Intermediate application No. 09/313,067 filed May 17, 1999 was filed within 12 months of the filing date of all 3 foreign applications.

However, requirement (2) above is not met. The claim is not included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6)). Any ADS should be entitled supplemental application data sheet and should be signed.

In view thereof, the petition under 37 CFR 1.55(c) is **DISMISSED**.

Any renewed petition must satisfy requirement (2) above.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

King and Spalding LLP
1700 Pennsylvania Ave, NW
Suite 200
Washington DC 20006

MAILED
MAR 26 2012
OFFICE OF PETITIONS

In re Patent No. 7,664,956	
Daniel Goodman	DECISION ON PETITION
Issue Date: February 16, 2010	UNDER 37 CFR 1.55(c)
Application No. 10/141,308	and
Filed: May 7, 2002	ON REQUEST FOR CERTIFICATE
Title:	OF CORRECTION
METHOD AND SYSTEM FOR REAL-TIME CONTROL OF DOCUMENT PRINTING	

This is in response to the paper styled "REQUEST FOR RECONSIDERATION OF DECISION ON PETITION UNDER 37 C.F.R. §1.47(B)" filed January 10, 2012, which is properly treated as a request for reconsideration of decision on petition under 37 C.F.R. §1.55(c). (No decision on petition under 37 C.F.R. §1.47(B) has been issued in the above-identified application).

The petition is **GRANTED**.

By decision mailed September 30, 2011, the PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 37 C.F.R. 1.55(c) AND REQUEST FOR CERTIFICATE OF CORRECTION filed August 25, 2011, to add benefit claims to Israeli Patent Application Nos. 124895 filed June 14, 1998, 127093 filed November 16, 1998 and 127869 filed December 30, 1998, by way of issuance of a certificate of correction was dismissed. The requirements of 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority were met, except the claim submitted was not included either in an oath or

declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6)).

On instant renewed petition, patentee included the claim in an executed supplemental Application Data Sheet (37 CFR 1.76(b)(6). The requirements of 37 CFR 1.55(c) have now been met.

A corrected Filing Receipt, which includes the priority claim to the above-noted, foreign applications, accompanies this decision on petition.

Petitioner is advised that the granting of this petition and the mailing of a corrected Filing Receipt should not be viewed as an indication that a determination has been made that this application is entitled to claim benefit of the foreign applications. A determination that patentee is entitled to claim benefit of the foreign applications will be made by the Examiner prior to the mailing of a certificate of correction.

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

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
10/141,308	05/07/2002	2436	2334	1259-0018	52	10

CONFIRMATION NO. 8166

CORRECTED FILING RECEIPT

11788
Stolowitz Ford Cowger LLP / ptomail
621 SW Morrison Street
Suite 600
Portland, OR 97205

Date Mailed: 03/26/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Daniel I. Goodman, Beit Shemesh, ISRAEL;

Power of Attorney: The patent practitioners associated with Customer Number 73552

Domestic Priority data as claimed by applicant

This application is a CIP of 09/774,236 01/29/2001 ABN
which is a CIP of 09/397,331 09/14/1999 PAT 6298446
which is a CIP of 09/313,067 05/17/1999 PAT 6209103

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)
ISRAEL IL 124895 06/14/1998
ISRAEL IL 127093 11/16/1998
ISRAEL IL 127869 12/30/1998

If Required, Foreign Filing License Granted: 05/31/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/141,308**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR REAL-TIME CONTROL OF DOCUMENT PRINTING

Preliminary Class

713

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SelectUSA

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DTW Feb-12

Paper No. 13

CHRISTOPHER J. COMFORT, DDS
333 W. EL CAMINO REAL
SUITE 290
SUNNYVALE CA 94087

MAILED

FEB 23 2012

OFFICE OF PETITIONS

In re Application of :
Comfort et al. :
Application No. 10/141,309 : ON PETITION
Filed: 05/07/2002 :
For: HAND-HELD MEDICAL/DENTAL :
TOOL :

This is a decision in response to the petition under 37 CFR 1.137(b) filed on September 28, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned at midnight on March 21, 2004, for failure to timely file a reply to the Office action requiring restriction and/or election mailed on February 20, 2004, which set a shortened statutory period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on January 25, 2005.

Receipt of the response to the Office action mailed on February 20, 2004, is acknowledged.

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 it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The power of attorney filed on September 28, 2006, cannot be accepted because a Statement Under 37 CFR 3.73(b), stating that the person signing the power of attorney is authorized on behalf of the assignee to do so, is not included. A new power of attorney and statement under 37 CFR 3.73(b) (forms enclosed) should be filed in the Office.

A courtesy copy of this decision will be mailed to the address in 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.

The application is referred to Technology Center Art Unit 3732 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/81
PTO/SB/96

Cf: WORKMAN NYDEGGER
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTHEW E. CONNORS
GAUTHIER & CONNORS LLP
225 FRANKLIN STREET, SUITE 3300
BOSTON MA 02110

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Patent No. 7,120,335 :
Issue Date: October 10, 2006 :
Application No. 10/141,317 : NOTICE
Filed: May 8, 2002 :
Attorney Docket No. 9190 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on April 28, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

While a courtesy copy of this Notice is being mailed to the person signing the request, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Cc:

DANIEL O'BRIEN
MASSACHUSETTS INSTITUTE OF TECHNOLOGY
FIVE CAMBRIDGE CENTER, KENDALL SQUARE
ROOM NE25-230
CAMBRIDGE, MASS. 02142-1493

RECEIVED
MAY 03 2010
OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

DEFICIENCY PAYMENT UNDER 37 C.F.R. § 1.28 (c)

Applicants had previously established in good faith, the status of the subject US Patents as small entity and paid the maintenance fees as such. It was subsequently discovered that such status was established in error. Applicants submit herewith a deficiency payment of $490, which represents the deficiency owed for the maintenance fees.

The deficient payment is itemized as follows:

Patent No.	Type of Fee	Fee Due Date	S/E Fee Paid	Current L/E Fee	Deficiency
7,120,335	4th Year	April 10, 2010	$490	$980	$490

The Office is hereby authorized to charge $490 to Deposit Account No. 192553 in payment of the above-referenced deficiencies.

If there are any additional charges, or any credits, please apply them to Deposit Account No. 192553.

Respectfully submitted,

Date:____April 28, 2010_____

Daniel O'Brien, Intellectual Property Manager
Massachusetts Institute of Technology
Technology Licensing Office
Five Cambridge Center, Kendall Square
Cambridge, Massachusetts 02142-1493
617.258.7148 (Telephone)
617.258.6790 (Fax)

04/30/2010 MBANDURA 00000156 192553 7120335
01 FC:1555 490.00 DA

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

RECEIVED
MAY 03 2010
OFFICE OF PETITIONS

Applicant/Patent Owner: Agarwal, Anuradha M. et al.

Application No./Patent No.: 10/141,317 / 7,120,335 Filed/Issue Date: 05-08-2002 / 10-10-2006

Titled: VERTICALLY AND LATERALLY CONFINED 3D OPTICAL COUPLER

Massachusetts Institute of Technology, a University
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☒ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made) the patent application/patent identified above, by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013383, Frame 0709, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ April 28, 2010
Signature Date

Daniel O'Brien Intellectual Property Mgr
Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

RECEIVED
MAY 03 2010
OFFICE OF PETITIONS

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Ram, Rajeev J. et al.

Application No./Patent No.: 10/748,358 / 7,130,494 Filed/Issue Date: 12-30-2003 / 10-31-2006

Titled: MAGNETICALLY ACTIVE SEMICONDUCTOR WAVEGUIDES FOR OPTOELECTRONIC INTEGRATION

Massachusetts Institute of Technology, a University
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☒ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in
(The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 015548, Frame 0746, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ April 28, 2010
Signature Date

Daniel O'Brien Intellectual Property Mgr
Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: Sachtler, Wendelin L.

Application No./Patent No.: 10/945,051 / 7,128,418 Filed/Issue Date: 09-20-2004 / 10-31-2006

Titled: COLOR VISION DEFICIENCY SCREENING TEST RESISTANT TO DISPLAY CALIBRATION ERRORS

Massachusetts Institute of Technology, a University
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

RECEIVED
MAY 03 2010
OFFICE OF PETITIONS

states that it is:

1. ☒ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made) the patent application/patent identified above, by virtue of either:

A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel 013629, Frame 0218, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☒ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ April 28, 2010
Signature Date

Daniel O'Brien Intellectual Property Mgr
Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

IFW

MIT TECHNOLOGY LICENSING OFFICE
5 Cambridge Center
Room NE25-230
Cambridge, MA 02142
617.253.6966
http://web.mit.edu/tlo/www/

RECEIVED
MAY 03 2010
OFFICE OF PETITIONS

FAX

To:	Office of Finance – Maintenance Fees	From:	
Fax:	571.273.6500	Pages:	6
Phone:		Date:	April 28, 2010
Re:	Deficiency Payment Under 37 C.F.R. § 1.28(c)	cc:	

Comments:

- Attached are the following documents in reference to the these US Patents:
  US Pat No 7,120,335
  US Pat No 7,130,494
  US Pat No 7,128,418

1) Deficiency Payment Under 37 C.F.R. § 1.28(c)
2) Notification of Loss of Entitlement to Small Entity Status
3) Statements Under 37 CFR § 3.73(b)

Thank you,

Dan O'Brien
Intellectual Property Manager
Massachusetts Institute of Technology
Technology Licensing Office
(T) 617.258.7148

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

NOV 08 2011

OFFICE OF PETITIONS

Brian K. Lambert
International Business Machines Corporation
Almaden Research Center 650 Harry Road
San Jose CA 95120

In re Application of :
Matthew DENESUK et al. : ON PETITION
Application No. 10/141,327 :
Filed: May 8, 2002 :
Atty. Docket No.: ARC920020002US1

This is a decision on the petition under 37 CFR 1.137(b), filed October 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of February 28, 2011 by the Board of Patent Appeals and Interferences (Decision). Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(c). As no claim was allowed, the application became abandoned on October 21, 2010. *See* MPEP 1214.06.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE), and RCE fee, and a submission required under 37 CFR 1.114, (2) a petition fee of $1860, and (3) a statement of unintentional delay. The reply to the Decision 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. Office63, 103 (October 21, 1997). In the event that date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Technology Center Art Unit 2166 for consideration of the filed submission.

Robert DeWitty
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.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

AUG 30 2010

OFFICE OF PETITIONS

In re Application of :
Carr :
Application No. 10/141,549 : ON APPLICATION FOR
Filed: May 8, 2002 : PATENT TERM ADJUSTMENT
Atty Docket No. 13544US01 :
Title: SYSTEM AND METHOD FOR :
SECURELY CONTROLLING ACCESS :
TO DEVICE FUNCTIONS :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)," filed July 29, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is two thousand, five hundred and eighty-nine (2589) days, not one thousand, eight hundred and seventy-six (1876) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely 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 he 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). No additional fees are required.

---

[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.

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 regarding this decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6961207
Issue Date: November 1,2005
Application No. 10142078
Filed: May 8,2002
Attorney Docket No. 139-008

:
: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.

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)
6961207	2005-11-01	10142078	2002-05-08	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

	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	/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
Alexandria, VA 22313-1450
www.uspto.gov

SALTAMAR INNOVATIONS
1 MATHEWSON ROAD
BARRINGTON, RI 02806

MAILED
MAY 05 2011
OFFICE OF PETITIONS

In re Patent No. 6,836,216 :
Issue Date: December 28, 2004 :
Application No. 10/142,096 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. 0204US-EAST :

REQUIREMENT FOR INFORMATION

A petition was filed on December 20, 2010, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

A decision on this petition will be held in abeyance for a period of **TWO MONTHS** from the date of this communication to permit petitioner to 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).

[ ] The instant petition is not signed by a person authorized to sign a petition under 37 CFR 1.378 in the above-identified patent. 37 CFR 1.378(d) requires that any petition under 37 CFR 1.378 be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest.

[X] The instant petition appears to be on behalf of the assignee; however, the petition does not comply with 37 CFR 3.73(b). 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment submitted for recording) or by specifying (*e.g.*, reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. **A Statement Under 37 CFR 3.73(b) is enclosed with this requirement for information.**

While the Office recognizes that the petitioner submitted a copy of the current assignment/ change of name of the assignee. The petitioner must submit a Statement Under 37 CFR 3.73(b), signed by a party authorized to act on behalf of the assignee, permitting the assignee to take action in a matter pending before the Office. Accordingly, this patent cannot be reinstated until a Statement Under 3.73(b), is filed.

A 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.

In order to expedite reinstatement of this patent, petitioner may wish to consider submitting the reply to the requirement for information by facsimile transmission to the telephone number indicated below and to the attention of the undersigned.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
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 Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the undersigned at (571) 272-6059.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: TAGIT-EAS LTD.
ELRAN ISRAEL
26 NEFMAN ST.
TEL-AVIV ISREAL 69581

Enclosure: PTO/SB/96, STATEMENT UNDER 3.73(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SALTAMAR INNOVATIONS
1 MATHEWSON ROAD
BARRINGTON, RI 02806

MAILED
JUL 18 2011
OFFICE OF PETITIONS

In re Patent No. 6,836,216 :
Issue Date: December 28, 2004 :
Application No. 10/142,096 : ON PETITION
Filed: May 9, 2002 :
Attorney Docket No. 0204US-EAST :

This is a decision in response to a petition filed December 20, 2010 and supplemented on May 24, 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 December 29, 2008, for failure to pay the 3 ½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

cc: TAGIT-EAS LTD.
ELRAN ISAEL
26 NEFMAN ST.
TEL-AVIV ISRAEL 69581

UNITED STATES 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
P.O. BOX 80278
SAN DIEGO CA 92138-0278

MAILED

DEC 30 2010

OFFICE OF PETITIONS

In re Application of :
Evans, et al :
Patent No. 6,605,627 : DECISION ON PETITION
Issue Date: 12 August, 2003 :
Application No. 10/142,373 :
Filed: 8 May, 2002
Attorney Docket No. 103147-0005

This is a decision on the petition under 37 C.F.R. §1.78, filed on 25 May, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

NOTE: Petitioner states that the petition originally was filed on 5 June, 2003—a date concurrent with Petitioner's submission of the Issue Fee. It does not appear that Petitioner properly requested a Certificate of Correction either at that time, or upon the 25 May, 2010, resubmission of the instant petition. Petitioner as one registered to practice before the Office is aware that a grantable petition to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to a prior-filed nonprovisional application requires the reference to be included in a Certificate of Correction.

Before the petition may be granted, a renewed petition accompanied by a request for Certificate of Correction (and fee) complying with the provisions of 37 C.F.R. §1.323 to correct the above matter(s) is required.

The petition is **DISMISSED**.

A petition under 37 C.F.R. §1.78 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 C.F.R. §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. §120 and 37 C.F.R. 1.78 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 C.F.R. §1.78 and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 C.F.R. §1.78. Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed during the pendency of the prior-filed non-provisional application.

The petition lacks item (1), above.[1]

This pending nonprovisional application was filed on 8 May, 2002, during the pendency and is stated to be a continuation of the prior-filed nonprovisional application, Application No. 09/788,070, which was a divisional of Application No. 09/255,392, which was a divisional of Application 08/477,493 and for which priority was timely claimed, and a reference to the prior-filed non-provisional application has been included in an amendment to the first sentence of the specification following the title and an updated Application Data Sheet (ADS) was submitted.

As to item (1), a grantable petition to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application requires the reference to be included in a Certificate of Correction.

Accordingly, before the petition under 37 C.F.R. 1.78 can be granted, a renewed petition under 37 C.F.R. 1.78 accompanied by a request for Certificate of Correction (and fee) complying with the provisions of 37 C.F.R. §1.323 to correct the above matter(s) is required.

---

[1] Petitioners always are reminded that guidance in the Commentary of the Manual of Patent Examining Procedure (MPEP) at §201.11(III)(C), Benefit claims to multiple prior applications, provides:

***

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F. 2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications. Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

***

Application No. 11/982,707

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is released to Files Repository.

Chris Bottorf
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-10

Siemens Corporation
Intellectual Property Department
186 Wood Avenue South
Iselin, NJ 08830

MAILED

OCT 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,26,775 :
Issue Date: September 4, 2007 : DECISION ON PETITION
Application No. 10/142,590 :
Filed: May 9, 2002 :
Atty Docket No.: 1001P08346US01 :

This is a decision on the petition, filed August 24, 2010, entitled "Petition to Withdraw Terminal Disclaimer and Supplementary Amendment Filed on August 10, 2010," which is being treated as a petition under 37 CFR 1.59(b), requesting that the papers filed on August 10, 2010, be expunged.

It is noted that petitioner submitted a petition fee of $400. Since the requisite fee for treatment of this petition is $200, the $200 overpaid is being credited to counsel's deposit account, as authorized.

The petition is **GRANTED-IN-PART.**

Petitioner requests that the Terminal Disclaimer and Supplementary Amendment filed on August 10, 2010, be expunged because these documents were inadvertently filed in the wrong file. Accordingly, petitioner seeks to have these documents expunged from the file.

37 C.F.R. §1.59 sets forth:

> § 1.59 Expungement of information or copy of papers in application file.
>
> (a)
>
> (1) Information in an application will not be expunged, except as provided in paragraph (b) of this section or § 41.7(a) of this title.
>
> (2) Information forming part of the original disclosure (*i.e.*, written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§ 1.63 and 1.175) will not be expunged from the application file.

(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in § 1.17(g) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.

(c) Upon request by an applicant and payment of the fee specified in § 1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (*see* §§ 1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan. 20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan. 4, 1984, effective Apr. 1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb. 11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; para. (b) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; revised, 68 FR 38611, June 30, 2003, effective July 30, 2003; para. (a)(1) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004; para. (b) revised, 69 FR 56481, Sept. 21, 2004, effective Nov. 22, 2004]

A review of the papers filed on August 10, 2010, reveals that the papers were filed in the wrong application. Further, it is noted that the papers were filed after the present application issued as a patent.

The matter petitioners wish to have expunged does not form part of the original disclosure. Petitioner has included the fee associated with the filing of petition under 37 C.F.R. §1.59 and has established to the satisfaction of the Director that the expungement of this information is appropriate.

As such, the electronic documents which contain these pages have been closed in the Office's Image File Wrapper software viewing program. The paper documents will not be removed from the physical file however, as the Office does not remove papers from paper files which have been scanned.

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 Sherry D. Brinkley at (571) 272-3204.

Christopher Bottorff
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland OR 97205

MAILED

DEC 17 2010

OFFICE OF PETITIONS

In re Application of :
BARNES et al. :
Application No. 10/142,632 : DECISION ON PETITION
Filed: 05/08/2002 :
Attorney Docket No. 60030/9:1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 3, 2007, 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 4, 2007. On March 10, 2008, the Office mailed a Notice of Abandonment.

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.

This application is being referred to Technology Center AU 2143 for appropriate action by the Examiner on the reply received on July 28, 2008.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6989815	2006-01-24	10143005	2002-05-13	219269USMF

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Bradley D. Lytle/	Date (YYYY-MM-DD)	2011-01-10
Name	Bradley D. Lytle	Registration Number	40073

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 6989815
Issue Date: January 24,2006
Application No. 10143005
Filed: May 13,2002
Attorney Docket No. 219269US8

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIAN STEINBERGER/UCF
101 BREVARD AVENUE
COCOA FL 32922

MAILED

JUL 25 2011

OFFICE OF PETITIONS

In re Patent No. 6,574,299 :
Issue Date: June 3, 2003 :
Application No. 10/143,160 : NOTICE
Filed: May 10, 2002 :
Attorney Docket No. UCF-317 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on May 20, 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.

Further, the $130.00 surcharge fee is not necessary.

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

Paper No.

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

MAILED
OCT 01 2010
OFFICE OF PETITIONS

In re Application of	:	
Rau et al.	:	DECISION
Application No. 10/143,581	:	ON APPLICATION FOR
Patent No. 7,702,538	:	PATENT TERM ADJUSTMENT
Filed: May 10, 2002	:	
Issued: April 20, 2010	:	
Atty Docket No. 47004-000206	:	
Title: SYSTEM AND METHOD FOR TRANSPONDER-ENABLED ACCOUNT TRANSACTIONS	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF DECISION DISMISSING REQUEST FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) AND PETITION UNDER 37 C.F.R. 1.183," filed on June 11, 2010. Patentee petitions under 37 C.F.R. § 1.183 for suspension of the requirement under 37 C.F.R. § 1.705(d) that prohibits patentees from raising issues that could have been raised in an application for patent term adjustment under 37 C.F.R. § 1.705(b) (which must be filed no later than the payment of the issue fee). Further, Patentee requests that the patent term adjustment be corrected from zero (0) days to one thousand, four hundred and ninety-three (1493) days. Patentee contends that one period of examination delay was improperly not assigned.

The petition pursuant to 37 C.F.R. § 1.183 is **DISMISSED.**

The petition pursuant to 37 C.F.R. § 1.705(b) is **DISMISSED AS UNTIMELY FILED.**

Patentee is given **THIRTY (30) DAYS** to respond to this decision. No extension of time will be granted under 37 C.F.R. § 1.136(a).

RELEVANT STATUTE AND RULES

35 U.S.C. § 154(b)(3)(B) sets forth, *in toto*:

> Under the procedures established under subparagraph (A), the Director shall-
> (i) make a determination of the period of any patent term adjustment under this subsection, and shall transmit a notice of that determination with the written notice of allowance of the application under section 151; and
> (ii) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director.

37 C.F.R. § 1.183 sets forth, *in toto*:

> In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

37 C.F.R. § 1.705 sets forth, *in pertinent part*:

> (a) The notice of allowance will include notification of any patent term adjustment under 35 U.S.C. 154(b).
> (b) Any request for reconsideration of the patent term adjustment indicated in the notice of allowance, except as provided in paragraph (d) of this section, and any request for reinstatement of all or part of the term reduced pursuant to § 1.704(b) must be by way of an application for patent term adjustment. An application for patent term adjustment under this section must be filed no later than the payment of the issue fee but may not be filed earlier than the date of mailing of the notice of allowance…
>
> (b) If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues (emphasis added).

OPINION

Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment *prior to the payment of the issue fee*.

On January 26, 2010, the Office mailed the initial determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. The issue fee payment was received in the Office on February 5, 2010. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended upon payment of the issue fee on February 5, 2010.

The patent issued on April 20, 2010.

A submission that is substantially similar to this petition was filed on May 17, 2010, less than two months after the issuance of this patent. The original submission was treated as a Request for Recalculation of Patent Term Adjustment in view of Wyeth, and dismissed via the mailing of a decision on May 21, 2010. This petition was filed less than one month later.

The Office notes that the decision of May 21, 2010 was issued in error as the submission of May 17, 2010 was not a Request for Recalculation of Patent Term Adjustment in view of Wyeth. The present decision supersedes the decision mailed on May 21, 2010.

On June 11, 2010, Patentee filed the present petition, requesting waiver of the requirement of 37 C.F.R. § 1.705(b). Patentee argues that "the last sentence of § 1.705(d)"[1] should be waived, due to two assertions: "[t]he improper calculation of the Patent Term Adjustment for the '538 patent rests solely on an administrative error on the part of the Patent Office" and "[t]he '538 patent, without this requested adjustment, only has

[1] Exhibit A, included with this petition, page 1.

an enforceable patent term of approximately 10 years (emphasis included) given its status as a divisional..."[2] Patentee gives no reason why the petition pursuant to 37 C.F.R. § 1.705(b) could not have been filed in a timely manner.

Having considered Patentee's petition, it is concluded that in this instance waiver of the requirement that the application for patent term adjustment be filed prior to payment of the issue fee is not appropriate. Patentee has not shown that the circumstance of the failure to comply with the time period for filing an application for patent term adjustment set forth in 37 C.F.R. § 1.705(b) is an extraordinary situation for which justice requires waiver.

The requirement that the application for patent term adjustment be filed prior to payment of the issue fee is clearly and unambiguously set forth in Rule 1.705(b). Patentee's argument that the Rule should be waived because an alleged error was committed by the Office and that the term of the patent without the requested adjustment is ten years is not persuasive. Patentee's failure to follow the rules does not present an extraordinary situation where justice would require the waiver of the rules.

Patentee was given notice of the Office's calculation of PTA, including notice that the Office had accorded no adjustment for the Decision on Appeal which was mailed on September 10, 2008. There was no reasonable basis for Patentee to conclude that the calculation of zero (0) days of PTA would be changed absent the filing of an application for patent term adjustment prior to payment of the issue fee.

No error on the part of the Office led to Patentee's failure to timely file an application for patent term adjustment. Nor has Patentee shown that any extraordinary situation prevented him from timely filing. Under these circumstances, justice does not require that Patentee's failure to timely file an application for patent term adjustment be treated any differently than any other applicant or patentee. Waiver of the requirement is not warranted.

The facts of record do not support an extraordinary situation. From what few facts there are of record, there is nothing

---

[2] Id. at 3.

extraordinary about a registered practitioner who is faced with a deadline, and has limited time to submit a paper to the Office to preserve his rights. Moreover, there is nothing extraordinary about a practitioner who failed to act in concert with published regulations.

The Office concludes that this situation does not constitute an extraordinary situation such that justice requires the waiver of the Rule.

As there is no dispute that this application for PTA was filed after payment of the issue fee and it has been concluded that waiver of the requirement is not warranted, it is appropriate to dismiss this application for patent term adjustment as being untimely filed.

In view thereof, it is concluded that the initial determination of Patent Term Adjustment of zero (0) days will not be reconsidered.

The $400.00 fee set forth in 37 C.F.R. § 1.17(f) will be charged to Deposit Account No. 50-0206 in due course. No additional fees are required.[3]

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

[3] This reply was timely filed within one month of the decision of May 21, 2010. The $200.00 fee set forth in 37 C.F.R. § 1.18(e) is not required: "[n]o fee is required," since Patentee "is asserting in the reply that the dismissal for ineligibility is improper (decision of May 21, 2010)."

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

MAR 17 2011

OFFICE OF PETITIONS

In re Application of :
Yona et al. :
Application Number: 10/144,001 : ON PETITION
Filing Date: 05/10/2002 :
Attorney Docket Number: 010324 :
:

This is a decision in response to the petition under 37 CFR 1.137(b) filed on February 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on January 23, 2009, for failure to timely submit a proper reply to the final Office action mailed on October 22, 2008. On December 19, 2008, an amendment after final rejection was filed. On January 14, 2009, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on December 19, 2008, fails to place this application in condition for allowance. Notice of Abandonment was mailed on June 10, 2009.

Receipt of the Request for Continued Examination (RCE) and submission under § 1.114 are acknowledged.

The application is referred to Technology Center Art Unit 2618 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Oct-11

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Application of :
Yona et al. :
Application Number: 10/144,001 : ON PETITION
Filing Date: 05/10/2002 :
Attorney Docket Number: 010324 :
:

This is a decision in response to the petition under 37 CFR 1.137(b) filed on October 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned on June 25, 2011, for failure to timely submit a proper reply to the non-final Office action mailed on March 24, 2011, which set a three (3)-month shortened statutory period for reply. Notice of Abandonment was mailed on October 7, 2011.

Receipt of the amendment filed on October 12, 2011 is acknowledged.

The application is referred to Technology Center Art Unit 2618 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SALTAMAR INNOVATIONS
1 MATHEWSON ROAD
BARRINGTON, RI 02806

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Patent No. 6,917,370 :
Issue Date: July 12, 2005 :
Application No. 10/144,467 : ON PETITION
Filed: May 13, 2002 :
Attorney Docket No. 0209US-TSI :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed April 27, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

Alicia Kelley-Collier
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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

Mail Date: 08/31/2010

Applicant	: John Richard Beasley	: DECISION ON REQUEST FOR
Patent Number	: 7653181	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/144,727	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/15/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **547** 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

Paper No.

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR NY 10510

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of :
Knapp et al. :
Application No. 10/144,834 : DECISION ON PETITION
Filed: October 25, 2001 : PURSUANT TO
Attorney Docket No. PHB34253USA : 37 C.F.R. § 1.181(A)
Title: ACTIVE MATRIX :
ELECTROLUMINESCENT DISPLAY :
DEVICES :

This is a decision on the petition pursuant to 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on December 9, 2010.

A Request for Continued Examination (RCE) was filed on March 22, 2010, along with the required fee and an amendment. The Office's Patent Application and Location Monitoring records suggest that on March 29, 2010, a "notice of informal or non-responsive RCE amendment" (notice) was mailed, which presumably set an extendable 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 April 30, 2010. A notice of abandonment was mailed on December 2, 2010.

With this petition, Petitioner has alleged the aforementioned notice was not received. Moreover, the electronic file does not contain a copy of the notice.

As such, it does not appear that the mailing of the notice was completed.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the response was not received.

Accordingly, the petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

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 re-mail the notice of non-compliant amendment of March 29, 2010, and will set a new period for response.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment 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.[1] 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 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEWIS AND ROCA LLP
1663 Hwy 395, Suite 201
Minden NV 89423

MAILED
SEP 26 2011
OFFICE OF PETITIONS

In re Application of :
WILLOUGHBY et al. :
Application No.: 10/144,870 : DECISION DISMISSING PETITIONS
Filed: May 15, 2002 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: USPS-037 :

This is a decision on the amended petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed July 11, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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) 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 where there is a question whether the delay was unintentional.

The petition does not comply with item (1). 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 under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Jose' Dees
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

LEWIS AND ROCA LLP
1663 Hwy 395, Suite 201
Minden NV 89423

MAILED
NOV 07 2011
OFFICE OF PETITIONS

In re Application of	:	
WILLOUGHBY et al.	:	
Application No. 10/144,870	:	DECISION DISMISSING PETITIONS
Filed: May 15, 2002	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No.: USPS-037	:	

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 4, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 119(e) for the benefit of priority to the prior-filed nonprovisional and provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) 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) 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 where there is a question whether the delay was unintentional.

The petition does not comply with items (1) and (3).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending international applications designating the United States must contain or be amended to contain a reference to each such prior-filed application, identifying it by

international application number, international filing date and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed international application. An example of a proper benefit claim is: "This application is a continuation of International Application No. PCT/---, filed---." A benefit claim that merely states: "This application claims the benefit of International Application No. PCT/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Here, the relationship between nonprovisional application 10/144,870 and PCT/US02/18552 is not stated. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

A nonprovisional application that directly claims the benefit of a provisional application under 35 U.S.C. 119(e) must be filed within 12 months from the filing date of the provisional application. Here, the present nonprovisional application 10/144,870 was not filed within 12 months from the filing date of the provisional application 290,048/60 (the application number is incorrectly written). Petitioner should identify which application claims the benefit of the filing date of the provisional application. See MPEP 201.11.

The amendment 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).

In regards to item (3), 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.

Further, 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.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.

Jose G Dees
Petitions Examiner
Office of Petitions

cc: WEISS & MOY PC
4204 NORTH BROWN AVENUE
SCOTTSDALE, AZ 85251

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	10144870
Filing Date	15-May-2002
First Named Inventor	Stuart Willoughby
Art Unit	3628
Examiner Name	FADEY JABR
Attorney Docket Number	USPS-037
Title	SYSTEMS AND METHODS FOR A LABEL WITH POSTAGE API

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 2011.12.13 ☐ 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	/Jeffrey L. Weiss/
Name	Jeffrey L. Weiss
Registration Number	45207

UNITED STATES 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 12, 2011

In re Application of :

Stuart Willoughby

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 10144870

Filed : 15-May-2002

Attorney Docket No : USPS-037

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 12, 201,1to 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 3628 for processing of the request for continuing examination under 37 CFR 1.114 .

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

Lewis and Roca LLP
2440 W. El Camino Real, 6th Floor
Mountain View CA 94040

MAILED

MAR 12 2012

OFFICE OF PETITIONS

In re Application of
WILLOUGHBY et al.
Application No. 10/144,870
Filed: May 15, 2002
Docket No.: USPS-037

: DECISION ON PETITIONS
: UNDER 37 CFR 1.78(a)(3) AND (a)(6)

This is a decision on the renewed petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed December 12, 2011 to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications as set forth in the amendment filed March 2, 2012 .

The petitions are **GRANTED.**

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.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) 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) and 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 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 1.78(a)(1) and (a)(2) and 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 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 applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3628 for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Jose' Dees
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt
Response to Rule 312 Communication

Response to Rule 312 Communication	Application No.	Applicant(s)
	10/144,870	WILLOUGHBY ET AL.
	Examiner	Art Unit
	FADEY JABR	3628

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

1. ☒ The amendment filed on *05 March 2012* under 37 CFR 1.312 has been considered, and has been:

a) ☒ entered.

b) ☐ entered as directed to matters of form not affecting the scope of the invention.

c) ☐ disapproved because the amendment was filed after the payment of the issue fee.
Any amendment filed after the date the issue fee is paid must be accompanied by a petition under 37 CFR 1.313(c)(1) and the required fee to withdraw the application from issue.

d) ☐ disapproved. See explanation below.

e) ☐ entered in part. See explanation below.

/Fadey S Jabr/
Primary Examiner, Art Unit 3628

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
10/144,870	05/15/2002	3628	1416	USPS-037	29	4

CONFIRMATION NO. 5234

CORRECTED FILING RECEIPT

28661
Lewis and Roca LLP
2440 W. El Camino Real, 6th Floor
Mountain View, CA 94040

OC000000053084771

Date Mailed: 03/12/2012

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)

Stuart Willoughby, Oakton, VA;
Ronald F. Smith, Rockville, MD;
Daniel Lord, Upper Marlboro, MD;
Charles Outman, Damascus, MD;
Joseph A. Otten, San Francisco, CA;
John Gullo, Alexandria, VA;
Anna Vale, Pearland, TX;

Power of Attorney: The patent practitioners associated with Customer Number 28661

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US2002/018552 05/13/2002
which claims benefit of 60/290,048 05/11/2001

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 06/17/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/144,870**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

SYSTEMS AND METHODS FOR A LABEL WITH POSTAGE API

Preliminary Class

705

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).

SelectUSA

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.

UNITED STATES 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 A. J. USHER IV
P.O. BOX 44126
INDIANAPOLIS, IN 46244

MAILED

OCT 01 2010

OFFICE OF PETITIONS

Patent No. 6,826,127 :
Issue Date: November 30, 2004 :
Application No. 10/145,026 : LETTER
Filed: May 15, 2002 :

This is in reply to the communications filed April 2, 2010, petitioning the Director to direct the Primary Examiner to consider statements presented with regard to the issue of a correction of inventorship in U.S. Patent No. 6,826,127, and deny a petition to correct inventorship filed on March 8, 2010 by Albert Stekelenburg, the assignee.

As a third party to an *ex parte* proceeding, petitioner is not in a position to demand that the USPTO act to vacate a prior decision or act as requested unless specifically authorized by statute or regulation. In particular, neither the patent statute nor its implementing regulation confer a right upon a third party to intervene or otherwise challenge the Office's decisions on the matters raised in the petitions. Information submitted to the Office regarding a patent that is not in reexamination must be consistent with 35 USC § 301, 37 CFR §§ 1.322 or 1.501, and/or the standards discussed in MPEP § 2207. The actions requested by the third party here are not specifically authorized by statute or regulation, and the communication is not a proper submission under 35 USC § 301, 37 CFR §§ 1.322 or 1.501, and/or the standards discussed in MPEP § 2207. Since petitioner lacks standing, the Office will not act as requested.

In addition, the Office's refusal to act on petitioner's requests is consistent with well-established case law for third party filings. See, Hallmark Cards Inc. v. Lehman, 959 F.Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997) (third party lacked jurisdiction and standing to challenge USPTO's issuance of a Certificate of Correction); Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920, (Fed. Cir. 1989) (third party lacked jurisdiction and standing to overturn USPTO decision to grant a reissue patent); Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 11 USPQ2d 1866, (Fed. Cir. 1989) (third party requester lacked standing to overturn USPTO decision to issue a reexamination certificate); The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988) (third party requester lacked standing to intervene in district court proceeding stemming from USPTO reexamination decision).

Rather than pursue relief by petition to the USPTO, petitioner's recourse is to challenge the patent itself as a defense if sued for infringement of the '350 patent. Hallmark Cards, 959 F. Supp. at 543. Furthermore, as a defense, petitioner may raise allegations of enforceability "on the basis of ... inequitable conduct." Hitachi, 776 F.Supp. at 10.

The third party communications April 2, 2010 will not be made of record in the file of the above cited application. Accordingly, the third party communications filed April 2, 2010, will be closed in the Office's Image File Wrapper (IFW) records for the above identified application.

The petition filed March 8, 2010, to correct inventorship of the instant application is **GRANTED**.

In view of the papers filed March 8, 2010, it has been found that this non-provisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.324. The inventorship of this application has been changed by the deletion of ALBERT STEKELENBURG, and the addition of SUN LI-YUN.

The change of Correspondence Address has been received and approved.

The application will be forwarded to the Office of Data Management for issuance of a Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: **HEDMAN & COSTIGAN, P.C.**
1185 AVENUES OF THE AMERICAS
NEW YORK, NY 10036

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)
6930598	2005-08-16	10145702	2002-05-16	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			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.

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	/Eugene S. Weiss/	Date (YYYY-MM-DD)	2011-02-28
Name	Eugene S. Weiss		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 6930598
Issue Date: August 16,2005
Application No. 10145702
Filed: May 16,2002
Attorney Docket No. WEI-001

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 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 February 28,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6591730	2003-07-15	10145936	2002-05-15	27177.00

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	○	3 ½ year	(2551)
○	7 ½ year	(1552)	◉	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/Jacob G. Horton/	Date (YYYY-MM-DD)	2011-09-09
Name	Jacob G. Horton	Registration Number	60876

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 6591730
Issue Date: July 15,2003
Application No. 10145936
Filed: May 15,2002
Attorney Docket No. 27177.00

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed September 9,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 7.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of September 9,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
6876633	2005-04-05	10145998	2002-05-15	1020.P8943X3

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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)	2010-10-12
Name	Kendal M. Sheets	Registration Number	47077

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 6876633
Issue Date: April 5,2005
Application No. 10145998
Filed: May 15,2002
Attorney Docket No. 1020.P8943X3

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 12,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 12,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DOWELL & DOWELL P.C.
103 Oronoco St.
Suite 220
Alexandria VA 22314

MAILED

AUG 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Smith et al.	:	
Application No. 10/146034	:	
Filing or 371(c) Date: 05/16/2002	:	ON PETITION
Pat. Num.: 7262151	:	
Issue Date: 08/28/2007	:	
Attorney Docket Number: 13996	:	

This is a notice regarding request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

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)
7276514	2007-10-02	10146566	2002-05-15	ACPH.50237-NY

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Arlen L. Olsen/	Date (YYYY-MM-DD)	2012-02-03
Name	Arlen L. Olsen	Registration Number	37543

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7276514
Issue Date: October 2,2007
Application No. 10146566
Filed: May 15,2002
Attorney Docket No. 18059-210

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed February 3,2012 ,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 3,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Beyer Law Group LLP
P.O. BOX 1687
Cupertino CA 95015-1687

MAILED
SEP 28 2011
OFFICE OF PETITIONS

In re Application of :
Noguchi, et al. :
Application No. 10/146,665 : NOTICE
Filed: May 13, 2002 :
Attorney Docket No. MES1P064 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed September 12, 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

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

JOHN S. PRATT, ESQ
KILPATRICK TOWNSEND & STOCKTON LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA GA 30309

MAILED
NOV 09 2011
OFFICE OF PETITIONS

In re Application of :
Craig LEWIS :
Application No. 10/146,746 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 6,671,895 :
Filed: May 16, 2002 :
Attorney Docket No.

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

JUN 06 2011

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Nicholas P. Plotnikoff :
Application No. 10/146,999 :
Filed: May 16, 2002 :
Attorney Docket No. 01-635-A :

This is a decision on the petition filed May 13, 2011, under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned 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 April 26, 2010, three (3) months extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on June 28, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed March 2, 2011.

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 (1).

As to item 1, a proper reply required after the filing of a Notice of Appeal, must be an Appeal Brief, an RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By 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 Kimberly Inabinet at (571) 272-4618.

/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

MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

JUL 05 2011

OFFICE OF PETITIONS

In re Application of :
Nicholas P. Plotnikoff :
Application No. 10/146,999 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No. 01-635-A :

This is a decision on the renewed petition filed June 20, 2011, under the unintentional provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed April 26, 2010, three (3) months extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 41.37(b). As no claim was allowed, the application became abandoned on June 28, 2010. See MPEP 1215.04. A Notice of Abandonment was mailed March 2, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of $405, (2) the petition fee of $810, and (3) a proper statement of unintentional delay. Accordingly, the RCE 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 1642 for appropriate action by the Examiner in the normal course of business on the reply received June 20, 2011.

/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

JOHN STEWART LANG
2209 S ANCHOVY AVE
SAN PEDRO CA 90732

MAILED
APR 21 2011
OFFICE OF PETITIONS

In re Application of :
John Stewart Lang :
Application No. 10/147,210 : ON PETITION
Filed: May 20, 2002 :
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 21, 2011, 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 May 23, 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 August 24, 2006. The Notice of Abandonment was mailed April 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

This application is being referred to Technology Center AU 1723 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.

/Terri Johnson/
Terri Johnson
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.
10/147,218	05/14/2002	Asif Khalfan	01-1048	8753

7590 10/18/2010

Dean Alderucci
110 East 59th St.
New York, NY 10022

EXAMINER	
CHEUNG, MARY DA ZHI WANG	
ART UNIT	PAPER NUMBER
3694	

MAIL DATE	DELIVERY MODE
10/18/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

OCT 18 2010

Dean Alderucci
110 East 59th Street
New York, NY 10022

In re Application of:
Khalfan et al.
Application No. 10/147,218
Filed: May 14, 2002
For: SYSTEMS AND METHODS FOR AN AUTO-SECURITY MONITOR THAT MAKES MARKETS

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the petition entitled "PETITION TO IMPLEMENT INSTRUCTIONS FROM THE PRESIDENT, AND TO VACATE AN ILLEGALLY-ISSUED MEMORANDUM OF JOHN LOVE OF APRIL 2007, TO VACATE EXAMINER'S PAPERS OF APRIL 2008, AUGUST 2008, AND APRIL 2009 BASED THEREON, AND TO VACATE ABANDONMENT, OR IN THE ALTERNATIVE, TO REVIVE UNINTENTIONALLY ABANDONEDED APPLICATION" filed on November 20, 2009. This petition is treated as a petition under 37 CFR 1.181 requesting that the Director invoke supervisory review to withdraw the holding of abandonment.

The petition is **DENIED.**

BACKGROUND

1. On April 14, 2008, a Requirement for Restriction was mailed.

2. On May 14, 2008, an Election to the Restriction Requirement was filed by Applicant.

3. On August 13, 2008, a notice of Non-Responsive Election was mailed.

4. On April 27, 2009, since no reply to the Non-Responsive notice was received within the time period set forth in the August 13, 2008 communication, a Notice of Abandonment was mailed.

5. On November 20, 2009, Applicant filed the instant petition.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

35 U.S.C. 133 provides, that:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR § 1.135 provides that:

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
>
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
>
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

37 CFR § 1.181 provides, in part, that:

> (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.

MPEP § 711.02 provides in pertinent part that (with emphasis added):

> 37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) **insufficiency of reply, i.e., failure to file a "complete and proper reply, as the condition of the case may require" within the statutory period (37 CFR 1.135(b))**.

DECISION

Petitioner requests that the abandonment of the application be withdrawn. A review of the record of the instant application shows that a notice of non-responsive election was mailed August 13, 2008. The notice states that "Applicant is given 1 month to respond" to the communication. Although not indicated in the notice, applicant's period for response was extendible under 37 CFR § 1.136(a). Since applicant failed to reply within the time period provided under 37 CFR § 1.134 and § 1.136 as provided for under 37 CFR § 1.135 and MPEP § 711.02, the application was properly held to be abandoned.

Furthermore, it should be noted that the instant petition was filed within almost seven months of the mailing date of the notice from which relief is requested (i.e., notice of abandonment). Pursuant 37 CFR 1.181(c), the petition is considered untimely.

Finally, it should be noted that all issues raised by Petitioner have been considered. Issues not specifically addressed in the instant decision, while considered, neither address the merits nor change the decision.

CONCLUSION

For the above stated reasons, the petition under 37 CFR § 1.181, requesting withdrawal of abandonment of the application is **DENIED**.

Accordingly, the application will be forwarded to the Office of Petitions for consideration of the petition to revive unintentionally abandoned application.

Any inquiries regarding this decision should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WC/tl: 10/13/10
TL

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Dean Alderucci
110 East 59th St.
New York NY 10022

MAILED
JAN 25 2012
OFFICE OF PETITIONS

In re Application of
Asif Khalfan et al.
Application No. 10/147,218
Filed: May 14, 2002
Attorney Docket No. 01-1048

ON PETITION

This is a decision on the PETITON FOR RULEMAKING AND IMPLEMENT INSTRUCTIONS FROM THE PRESIDENT, AND PETITION TO VACATE MEMORANDA OF JOHN LOVE OF APRIL 2007 AND OF ROBERT BAHR OF JANUARY 2010, AND TO VACATE EXAMINER'S PAPERS OF APRIL 14, 2008, AUGUST 13, 2008, AND APRIL 27, 2009 BASED THEREON, AND TO VACATE ABANDONMENT, OR IN THE ALTERNATIVE , TO REVIVE UNAVOIDALBY OR UNINTENTIONALLY ABANDONED APPLICATION, filed December 20, 2010. This petition is being treated as one filed under 37 CFR 1.181 requesting that the Director exercise his supervisory authority to review the decision of the Director, Technology Center 3600 (Technology Center Director), dated October 18, 2010. The petition is also treated in the alternative as a petition to revive an abandoned application under 37 CFR 1.137(a) as abandoned unavoidably and further in the alternative to revive an application abandoned unintentionally under 37 CFR 1.137(b).[1]

The petition under 37 CFR 1.181 is **DENIED**[2].

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **DISMISSED**.

BACKGROUND

[1] The petition for Rulemaking must be filed in a separate paper since it is treated by a different part of the Office. No opinion is expressed in this decision with regards to the Petition for Rulemaking.

[2] 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

A requirement for restriction was mailed April 14, 2008. The restriction identified two distinct inventions and identified the claims drawn to each invention.

A response to the restriction requirement was filed on May 14, 2008.

A Notice of Non-Responsive Election/Restrictions (Notice) was mailed August 13, 2008. This Notice indicated that applicant had failed to properly elect an invention. Applicant elected an invention identified by claims drawn to both inventions.

A Notice of Abandonment was mailed April 27, 2009.

A petition to the TC Director was filed November 20, 2009.

A petition decision by the TC Director was mailed October 18, 2010 which denied the petition filed November 20, 2009.

The instant petition to the Director was filed December 20, 2010.

In regard to the petition under 37 CFR 1.181:

STATUTE AND REGULATIONS

35 U.S.C. § 121 states that:

> If two or more independent and distinct inventions are claimed in one application, the Director may require the application to be restricted to one of the inventions. If the other invention is made the subject of a divisional application which complies with the requirements of section 120 of this title it shall be entitled to the benefit of the filing date of the original application. A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application. If a divisional application is directed solely to subject matter described and claimed in the original application as filed, the Director may dispense with signing and execution by the inventor. The validity of a patent shall not be questioned for failure of the Director to require the application to be restricted to one invention.

37 CFR 1.142 states in part that:

(a) If two or more independent and distinct inventions are claimed in a single application, the examiner in an Office action will require the applicant in the reply to that action to elect an invention to which the claims will be restricted, this official action being called a requirement for restriction (also known as a requirement for division). Such requirement will normally be made before any action on the merits; however, it may be made at any time before final action.

37 CFR 1.143 states that:

If the applicant disagrees with the requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefor. (See § 1.111). In requesting reconsideration the applicant must indicate a provisional election of one invention for prosecution, which invention shall be the one elected in the event the requirement becomes final. The requirement for restriction will be reconsidered on such a request. If the requirement is repeated and made final, the examiner will at the same time act on the claims to the invention elected.

37 CFR 1.181 states in 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.

5 U.S.C. § 555 states in part that:

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for

> the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.
>
> * * * * *
>
> (e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceeding.

OPINION

On April 14, 2008, the examiner issued a restriction requirement under 37 CFR 1.142, indicating two groups of inventions. Applicant filed a reply to the restriction requirement on May 14, 2008. This reply to the restriction requirement did not provide a proper election. The examiner mailed a Notice on August 13, 2008 indicating to applicant that the election was not proper and gave applicant one month to properly respond to the restriction requirement. Applicant failed to respond to the Notice in a timely manner and the application went abandoned on September 14, 2008 for failure to respond to the Notice. A Notice of Abandonment was mailed April 27, 2009.

37 CFR 1.143 provides that "[i]f applicant disagrees with a requirement for restriction, he may request reconsideration and withdrawal or modification of the requirement, giving the reasons therefore" and applicant must provisionally elect one of the inventions for prosecution in the request for reconsideration.

Applicant's response to the restriction requirement filed May 14, 2008 argued that the examiner's grouping of claims for group I was faulty. Applicant proposed his own listing of claims for group I which included claims from group I and group II as originally set forth by the examiner. Applicant then states "Applicant elects that group." "That group" was neither group I or group II as set forth by the examiner. By amending what he considered the proper claims drawn to the group I invention, applicant did not follow proper procedure set forth under 37 CFR 1.143. Applicant should have clearly indicated that he elected the invention of group I and then provided a request for modifying the claim listing for group I. Instead, applicant elected a self determined, modified listing of group I claims which was not the claim listing the examiner had established. Applicant did not follow the rules governing restriction election and the examiner properly put applicant on notice to this point. Applicant did not respond to the Notice and the application was properly abandoned.

The Technology Center Director's petition decision of October 18, 2010 in regard to the abandonment of this application has been reviewed and no error discovered in this decision.

Petitioner is requesting a review of the TC Director's decision mailed October 18, 2010, for compliance with 5 U.S.C. § 553(e), 555(b) and (e), the Paperwork Reduction Act , 35 USC § 2(b)(2), 3(a), 3(b)(2), 3(b)(3)(B), and 37 CFR 1.181(b). Petitioner further asks the Director to exercise his duties to provide management supervision and to superintend duties of PTO employees to comply with the law in a fair, impartial, and equitable manner, and to define the authority of PTO employees.

Petitioner sets forth three fundamental errors in the Technology Center Director's decision of "November" 2010. It is noted the Technology Center Director's decision was mailed in October of 2010.

Petitioner indicates the decision referenced "withdrawal" of abandonment whereas petitioner requested the abandonment be "vacated". As review of the Technology Center Director's decision shows that abandonment was proper, this argument is moot and neither the restriction requirement nor notice of abandonment will be withdrawn or vacated.

Petitioners disagree with the Technology Center Director's decision because the decision did not vacate the April 25, 2007 memorandum. 37 CFR 1.181 provides for review of actions or requirements of an examiner in the *ex parte* prosecution of an application, and is not a forum for general complaints about USPTO practices or procedures. The April 25, 2007 memorandum is not an action or requirement made in the instant application. The withdrawal of the restriction requirement (rather than vacatur) is likewise not an action or requirement made in the instant application.[3] In any event, petitioners' request that the examiner's restriction requirement be vacated is not granted because 37 CFR 1.143 only provides that applicant may request for reconsideration and withdrawal or modification of a restriction requirement. Accordingly, the Technology Center Director's decision addressed all the relevant issues related to actions taken or requirements made in the instant application that were presented in the petition under 37 CFR 1.181 filed on November 20, 2009, and is thus in compliance with 5 U.S.C. § 555(b) and (e).

Petitioner also raises issues under the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq. (Paperwork Reduction Act). The collection of information pertaining to the filing of applications has been reviewed and approved by OMB under control number 0651-0032 and the collection of information pertaining to replies to Office action up to allowance of an application has been reviewed and approved by OMB under control number 0651-0031. The collection of information at issue (the election by an applicant in reply to a requirement for restriction by the examiner) has been reviewed and approved by OMB under control number 0651-0031. The public protection provision of the Paperwork Reduction Act provides in part that: "no person shall be subject to any penalty for failing to comply with a collection of information that is subject to this subchapter if- (1) the collection of information does not display a valid control

[3] Any patent term adjustment under 35 U.S.C. § 154(b) will be indicated on the notice of allowance if the Office subsequently allows the instant application after an examination on the merits. See 37 CFR 1.705. Any complaint about the patent term adjustment indicated on any notice of allowance that issues in the instant application must be presented in compliance with 37 CFR 1.705(b) after the Office issues a notice of allowance in this application.

number assigned by the Director in accordance with this subchapter; or (2) the agency fails to inform the person who is to respond to the collection of information that such person is not required to respond to the collection of information unless it displays a valid control number." *See* 44 U.S.C. § 3512(a). Thus, the Paperwork Reduction Act does not create private right of action, but is only defense to enforcement actions. See Ass'n of Am. Physicians & Surgs. v. United States HHS, 224 F. Supp. 2d 1115, 1128 (S.D.Tex. 2002). The information required by the public protection provision of the Paperwork Reduction Act is provided on the transmittal form the USPTO provides for any reply to an Office action, namely the transmittal form PTO/SB/21.

Petitioner argues that the petition to the Technology Center Director was timely filed and the Technology Center Director's decision to the contrary was in error. The Technology Center Director's decision noted that the petition filed November 20, 2009 was filed almost seven months after the mailing of the Notice of Abandonment and was thus untimely, see 37 CFR 1.181(f). Although no specific justification for timeliness was made in this petition, petitioner does make reference to arguments presented on pages 8-10 of the petition to the Technology Center Director. 37 CFR 1.181(f) specifically states that any petition not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. In regard to actions taken by the examiner in the *ex parte* prosecution of this application, the petition was filed more than two months from the mailing date of the notice of abandonment. Any arguments on timeliness of the petition based on issues outside the realm of *ex parte* prosecution are not appropriate.

Finally, petitioner argues that the Technology Center Director's decision did not rule on petitioner's request that the PTO comply with the OMB's Good Guidance Practices directive. Section 11 of Executive order 12866 expressly indicates that: "[t]his Executive order is intended only to improve the internal management of the Federal Government and does not create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its agencies or instrumentalities, its officers or employees, or any other person." See Executive Order 12866 of September 30, 1993; Regulatory Planning and Review, 58 Fed. Reg. 51735 (Oct. 4, 1993). The Bulletin on Good Guidance Practice is a bulletin issued by OMB in a Federal Register notice entitled Final Bulletin for Agency Good Guidance Practices, published at 72 Fed. Reg. 3432 (Jan. 25, 2007). Similar to Executive order 12866, the Final Bulletin for Agency Good Guidance Practices expressly indicates that: "[t]his Bulletin is intended to improve the internal management of the Executive Branch and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity, against the United States, its agencies, or other entities, its officers or employees, or any other person." See Final Bulletin for Agency Good Guidance Practices, 72 Fed. Reg. at 3440. Any person may bring issues of alleged non-compliance on the part of the USPTO with Executive order 12866 or the Final Bulletin for Agency Good Guidance Practices to the attention of the Department of Commerce or the Office of Management and Budget; however, petitioners' issues concerning compliance or non-compliance with Executive order 12866 or the Final Bulletin for Agency Good Guidance Practices do not provide a basis for setting aside or otherwise disturbing the Technology Center Director's decision in the above-identified application. See, e.g., Teledyne, Inc. v. United States, 50 Fed. Cl. 155, 190 (Fed. Cl. 2001) (plaintiff cannot rely upon an Executive order that, by its

plain terms, precludes judicial review of an agency's compliance with its directive as a basis for challenging agency action).

In regard to the petition under 37 CFR 1.137(a):

Petitioner requests in the alternative that the application be considered as abandoned unavoidably under 37 CFR 1.137(a).

The petition under 37 CFR 1.137(a) is **dismissed.**

The petition fee set forth under 37 CFR 1.17 has been charged to petitioner's deposit account.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Notice mailed August 13, 2008, which set a period for reply of one (1) month. Accordingly, the application became abandoned on September 14, 2008. A Notice of Abandonment was mailed April 27, 2011.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (3).

In regard to item (1), the instant petition includes what appears to be an election of inventions. However, applicant indicates the examiner's listing of claims for the two groups of inventions (as set forth in the examiner's restriction requirement of April 14, 2008) is in error and lists what claims he feels are proper for group I. This grouping includes claims from the examiner's group I and group II. Applicant indicates he elects "that group" which is a reference to group I claims as determined by applicant and is neither the group I or group II as defined by the examiner. Therefore the election is improper under 37 CFR 1.143 for the very same reason as indicated in the examiner's Notice of August 13, 2008.

In regard to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 35 U.S.C. § 151 and 37 CFR 1.137(a). See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

Petitioner indicates that abandonment was unavoidable "as no reasonable applicant could have forseen the PTO's refusal to follow statutes and directives from the President." This stated reason for unavoidable delay is not convincing. The examiner mailed the Notice clearly indicating the defect in applicant's election of invention and what steps applicant must take to correct the election defect. The response period was clearly indicated as one month. Petitioner has presented no reason why applicant was unavoidably prohibited from properly and timely responding to the Notice.

In regard to the petition under 37 CFR 1.137(b):

Petitioner requests that if the petition under 37 CFR 1.137(a) is not granted, in the alternative a petition under 37 CFR 1.137(b) be considered.

The petition under 37 CFR 1.137(b) is **dismissed**.

The petition fee as set forth in 37 CFR 1.17 has been charged to petitioner's deposit account.

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 (1).

As noted above, the election filed with the instant petition is not a proper response to the Notice of August 13, 2008 and therefore the required reply has not been filed.

Petitioner will need to file a proper election of invention in order to revive the instant application.

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(a) and (b)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

CONCLUSION

The petition is granted to the extent that the decision of the Technology Center Director of December 18, 2010 has been reviewed; however, the petition is **denied** with respect to making any change to or otherwise disturbing the Technology Center Director's decision of December 18, 2010.

Andrew Hirshfeld
Associate Commissioner for
Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PERKINS COIE LLP
P.O. BOX 1208
SEATTLE, WA 98111-1208

MAILED
MAY 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,102,633 :
Issue Date: September 5, 2006 :
Application No. 10/147,380 : ON PETITION
Filed: May 15, 2002 :
Attorney Docket No. 76882-8004.US01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed April 18, 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.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

A. Kelley Collier

Alicia Kelley-Collier
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

OCT 06 2010

OFFICE OF PETITIONS

JACK OISHER, ESQ.
200 HIGH POINT ROAD-PH2
HARTSDALE NY 10530

In re Patent No. 6,966,738 :
Issued: November 22, 2005 :
Application No. 10/147,398 : ON PETITION
Filed: May 17, 2002 :
Attorney Docket No. API-852 :

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.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. While, a courtesy copy of this decision is being mailed to the address given on the petition, the Office will mail all future correspondence solely to the address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Robert F. Gazdzinski
16644 West Bernardo Drive, Suite 201
San Diego, CA 92127

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)
7286669	2007-10-23	10147456	2002-05-17	ID 052611

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/SMG/	Date (YYYY-MM-DD)	2011-11-03
Name	Steven M. Gruskin	Registration Number	36818

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 7286669
Issue Date: October 23,2007
Application No. 10147456
Filed: May 17,2002
Attorney Docket No. A360-1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed November 3,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY NC 27518

MAILED

OCT 08 2010

OFFICE OF PETITIONS

In re Application of :
Alexander Wayne Hietala :
Application No. 10/147,569 : DECISION GRANTING PETITION
Filed: May 16, 2002 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2867-162 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 7, 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 August 23, 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2611 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE
SUITE 160
CARY, NC 27518

MAILED

FEB 24 2011

OFFICE OF PETITIONS

In re Application of :
Alexander Wayne Hietala :
Application No.: 10/147,569 : ON PETITION
Filed: May 16, 2002 :
Attorney Docket No.: 2867-162 :

This is a decision on the petition, filed February 23, 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 December 14, 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 2611 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Louis A. Morgan
805 Rancho Est. Blvd.
Yukon, OK 73099

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Patent No. 6,609,381 :
Issue Date: August 26, 2003 :
Application No. 10/147,646 : ON PETITION
Filed: May 16, 2002 :
For: CONTROLLED FILL STATION FOR :
DELIVERY OF A MEASURED AMOUNT :
OF CRYOGENIC GAS TO CLYLINDER :

This is a decision on the petition under 37 CFR 1.378(c), filed January 10, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is GRANTED.

This patent expired on August 26, 2011 for failure to pay the 7.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 until such time as patentee submits a proper change of correspondence address.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

NOV 01 2010

OFFICE OF PETITIONS

In re Patent No. 7,471,362 :
Issue Date: December 30, 2008 :
Application No. 10/148,273 : ON PETITION
Filed: May 29, 2002 :
Attorney Docket No. 124-945 :

This is a decision on the petition filed February 4, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-2991. 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.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

IPLM GROUP, P.A.
POST OFFICE BOX 18455
MINNEAPOLIS MN 55418

MAILED

JUN 14 2011

OFFICE OF PETITIONS

In re Patent of Rogelja :
Patent No. 6,732,833 :
Issued: May 11, 2004 : NOTICE
Application No. 10/148,908 :
Filed: August 16, 2002 :
Attorney Docket No. 229P010USW0

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed May 16, 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

UNITED STATES 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. 7267028
Issue Date: September 11,2007
Application No. 10148935
Filed: August 14,2002
Attorney Docket No. IGG2208US

:
: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 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 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)
7267028	2007-09-11	10148935	2002-08-14	IGG2208US

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/J. Michael Neary/	Date (YYYY-MM-DD)	2011-09-20
Name	J. Michael Neary	Registration Number	25453

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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

Browdy & Neimark
624 Ninth Street NW
Washington DC 20001-5303

MAILED
AUG 25 2011
OFFICE OF PETITIONS

In re Patent No.7,414,038 :
Kinugasa et al. : DECISION UPON REMAND AND
Issue Date: August 19, 2008 : RECONSIDERATION OF
Application No. 10/148,971 : PATENT TERM ADJUSTMENT
Filed: June 10, 2002 : AND NOTICE OF INTENT
Attorney Docket No. Kinugasa=2 : TO ISSUE CERTIFICATE OF
Title: Embolic materials : CORRECTION
:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by thirteen hundred and nine (1309) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by thirteen hundred and nine (1309) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,414,038

DATED : August 19, 2008 **DRAFT**

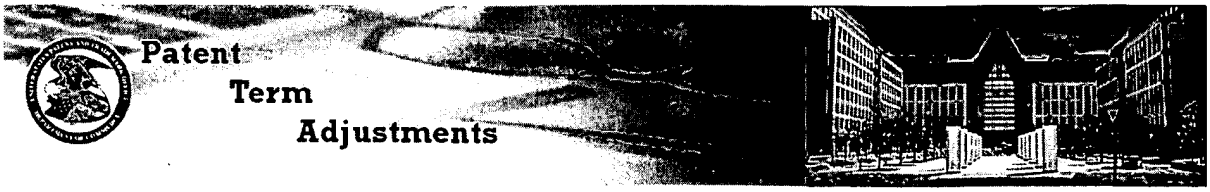
INVENTOR(S) : Kinugasa et al.

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 757 days

Delete the phrase "by 757 days" and insert – by 1309 days--



PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10148971 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10148971

Application Filing Date	06/10/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent	08/19/2008	Non-Overlapping USPTO Delays:	758
A Delays	758	PTO Manual Adjustment	552
B Delays	0	Applicant Delay (APPL)	1
C Delays	0	Total PTA (days)	1309

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL		Parent Action Number
84	08/22/2011		P028	Adjustment of PTA Calculation by PTO	552		0	
75	08/19/2008		PTAC	Patent Issue Date Used In PTA Calculation			0	
75.5	07/30/2008	06/10/2005	PTA36M	PTA 36 Months	0		0	
74	07/16/2008		EFDC	Export to Final Data Capture			0	
73	07/15/2008		D1935	Dispatch to FDC			0	
72	07/14/2008		PILS	Application Is Considered Ready for Issue			0	
71	07/11/2008		N084	Issue Fee Payment Verified			0	
70	07/11/2008		IFEE	Issue Fee Payment Received			0	
69	05/16/2008		FIDC	Finished Initial Data Capture			0	
65	04/14/2008		MN/=.	Mail Notice of Allowance			0	
64	04/11/2008		IREV	Issue Revision Completed			0	
63	04/11/2008		N/=.	Notice of Allowance Data Verification Completed			0	
62	04/11/2008		DOCK	Case Docketed to Examiner in GAU			0	
61	04/09/2008		ACRE	Allowed Case Returned to the Examiner for Clerical Processing			0	
60	04/09/2008		OVER	Document Verification			0	
59	04/09/2008		EX.A	Examiner's Amendment Communication			0	
58	04/09/2008		CNTA	Allowability Notice			0	
57	04/08/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0	
56	03/26/2008		FWDX	Date Forwarded to Examiner			0	
55	01/29/2008		A.NE	Amendment after Final Rejection			0	
54	01/15/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0	
53	01/11/2008		CTAV	Advisory Action (PTOL-303)			0	
52	01/09/2008		FWDX	Date Forwarded to Examiner			0	
51	12/27/2007		A.NE	Amendment after Final Rejection			0	
50	10/29/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0	
49	10/26/2007		CTFR	Final Rejection			0	
48	08/23/2007		FWDX	Date Forwarded to Examiner			0	
47	08/20/2007		A...	Response after Non-Final Action			0	
44	05/30/2007		MCTNF	Mail Non-Final Rejection			0	
43	05/24/2007		CTNF	Non-Final Rejection			0	
42	03/16/2007		FWDX	Date Forwarded to Examiner			0	
40	03/16/2007		FWDX	Date Forwarded to Examiner			0	
38	03/16/2007		ABN9	Disposal for a RCE / CPA / R129			0	
41	03/12/2007		AMPR	RCE- AF Processed			0	
39	03/12/2007	03/11/2007	RCEX	Request for Continued Examination (RCE)		1	32	
37	03/12/2007		BRCE	Workflow - Request for RCE - Begin			0	
36	03/06/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0	
35	03/05/2007		CTAV	Advisory Action (PTOL-303)			0	
34	02/22/2007		FWDX	Date Forwarded to Examiner			0	
33	02/07/2007		A.NE	Amendment after Final Rejection			0	
32	12/11/2006		MCTFR	Mail Final Rejection (PTOL - 326)			0	
31	12/07/2006		CTFR	Final Rejection			0	
30	09/27/2006		FWDX	Date Forwarded to Examiner			0	
29	09/19/2006		A...	Response after Non-Final Action			0	
28	06/20/2006		MCTNF	Mail Non-Final Rejection			0	
27	06/12/2006		CTNF	Non-Final Rejection			0	
23	03/24/2006		FWDX	Date Forwarded to Examiner			0	
22	03/20/2006		ELC.	Response to Election / Restriction Filed			0	
21	02/24/2006		MCTRS	Mail Restriction Requirement			0	
20	02/21/2006		CTRS	Restriction/Election Requirement			0	
19	12/10/2005		FWDX	Date Forwarded to Examiner			0	
18	11/28/2005		A...	Response after Non-Final Action			0	
17	09/06/2005	08/10/2003	MCTNF	Mail Non-Final Rejection	758		-1	
16	09/02/2005		CTNF	Non-Final Rejection			0	
26	08/01/2005		IDSC	Information Disclosure Statement considered			0	

15	08/01/2005	RCAP	Reference capture on IDS	0
14.7	08/01/2005	M844	Information Disclosure Statement (IDS) Filed	0
14	08/01/2005	WIDS	Information Disclosure Statement (IDS) Filed	0
13	07/27/2005	DOCK	Case Docketed to Examiner in GAU	0
11	04/16/2005	DOCK	Case Docketed to Examiner in GAU	0
12	03/15/2005	LET.	Miscellaneous Incoming Letter	0
10	09/13/2004	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
9	01/29/2004	DOCK	Case Docketed to Examiner in GAU	0
25	05/02/2003	IDSC	Information Disclosure Statement considered	0
8.7	05/02/2003	M844	Information Disclosure Statement (IDS) Filed	0
8	05/02/2003	WIDS	Information Disclosure Statement (IDS) Filed	0
46	04/15/2003	IDSC	Information Disclosure Statement considered	0
45	04/15/2003	WIDS	Information Disclosure Statement (IDS) Filed	0
6	04/14/2003	A.PE	Preliminary Amendment	0
5	09/19/2002	DOCK	Case Docketed to Examiner in GAU	0
4	08/24/2002	SCAN	IFW Scan & PACR Auto Security Review	0
3	08/21/2002	OIPE	Application Dispatched from OIPE	0
2	08/06/2002	M903	Notice of DO/EO Acceptance Mailed	0
1	06/10/2002	IEXX	Initial Exam Team nn	0

Export to: Excel

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)
7,169,554	2007-01-30	10/149,146	2002-08-12	GP165-01.UT

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Charles B. Cappellari/	Date (YYYY-MM-DD)	2011-04-06
Name	Charles B. Cappellari	Registration Number	40937

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7169554
Issue Date: January 30,2007
Application No. 10149146
Filed: August 12,2002
Attorney Docket No. GP165-01.UT

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed April 6,2011 ,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 April 6,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.go

JOHN ALEXANDER GALBREATH
2516 CHESTNUT WOODS CT
REISTERSTOWN MD 21136

MAILED

FEB 13 2012

OFFICE OF PETITIONS

In re Patent No. 6,684,805
Issue Date: February 3, 2004
Application No. 10/149,367
Filed: June 6, 2002
Attorney Docket No. CUR100.US

LETTER

This is a decision on the Request for Reconsideration filed February 2, 2012.

Applicant request reconsideration of the Office letter mailed on January 27, 2012, and request that the $400.00 reconsideration fee be waived in the above-identified patent application.

The request is GRANTED.

The Office apologizes for any inconvenience caused in this matter.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
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.
10/150,045	05/17/2002	Jens J. Hyldig-Nielsen	BP-0104-US	1945

7590 06/28/2011

LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS, MN 55402

EXAMINER	
GOLDBERG, JEANINE ANNE	

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
06/28/2011	ELECTRONIC

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
Alexandria, VA 22313-1450
www.uspto.gov

June 25, 2011

LIFE TECHNOLOGIES CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Jens J. Hyldig-Nielsen et al.	:	**DECISION ON PETITION**
Application No. 10150045	:	
Filed: 05/17/2002	:	***ACCEPTANCE OF COLOR***
Attorney Docket No. **BP-0104-US**	:	***DRAWINGS***

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) April 4, 2005.

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 contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

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.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ZILKA-KOTAB, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

MAILED

APR 12 2011

OFFICE OF PETITIONS

In re Application of :
Kadam et al. :
Application No. 10/150,608 :
Filed: May 17, 2002 :
Attorney Docket No. 02.098.01 (920-0089US) :
:

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 25, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on April 4, 2011 the power of attorney to Zilka-Kotab, PC was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: McAfee-Wong Cabello Lutsch Rutherford & Brucculeri LLP
20333 Tomball Parkway, 6th Floor
Houston TX 77070

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

McAfee-Wong Cabello Lutsch Rutherford
& Brucculeri
LLP
20333 Tomball Parkway, 6th Floor
Houston TX 77070

MAILED
DEC 06 2011
OFFICE OF PETITIONS

In re Application :
Kadam, et al. :
Application No. 10/150,608 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 17, 2002 :
Dkt. No.: 02.098.01 (920-0089US) :

This is in response to the application for patent term adjustment pursuant to 37 CFR 1.705(b) filed November 17, 2011.

The request for reconsideration of patent term adjustment is **GRANTED**.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 872 days, not 1,805 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment mailed November 10, 2011. Applicants assert that the application was improperly accorded an adjustment of 933 days in connection with the mailing of the decision by the BPAI on August 2, 2010.

The arguments presented have been carefully reviewed and found convincing. A review of the record reveals that the application is not entitled to an adjustment of 933 under 37 CFR 1.704(a) in connection with the mailing of the Board decision on August 2, 2010. In view thereof, as of the time of allowance, the application is entitled to a patent term adjustment of 872 days, as argued (929 days under 37 CFR 1.704(a) less 57 days under 37 CFR 1.704).

The $200.00 patent term adjustment application required per 37 CFR 1.18(e) has been charged to the authorized deposit account.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

The Adjusted PAIR Calculation can be assessed via public and/or private PAIR.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enc.

Best Available Copy

Patent Term Adjustments

PTA/PTE Information | Patent Term Adjustment | Patent Term Extension

Application Number*: 10150608 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10150608

Application Filing Date	05/17/2002	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	1862
A Delays	1862	PTO Manual Adjustment	-933
B Delays	0	Applicant Delay (APPL)	57
C Delays	0	Total PTA (days)	872

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
104	12/04/2011		P028	Adjustment of PTA Calculation by PTO		933	0
99	11/10/2011		MN/=.	Mail Notice of Allowance			0
98	11/07/2011		OAR	Office Action Review			0
97	11/07/2011		OAR	Office Action Review			0
96	11/07/2011		DVER	Document Verification			0
95	11/07/2011		IREV	Issue Revision Completed			0
94	11/07/2011		N/=.	Notice of Allowance Data Verification Completed			0
93	11/04/2011		EX.R	Reasons for Allowance			0
92	11/04/2011		CNTA	Allowability Notice			0
88	09/01/2011		FWDX	Date Forwarded to Examiner			0
87	08/12/2011		A...	Response after Non-Final Action			0
86	05/12/2011		ELC_RVW	Electronic Review			0
85	05/12/2011		EML_NTF	Email Notification			0
84	05/12/2011		MCTNF	Mail Non-Final Rejection			0
83	05/09/2011		CTNF	Non-Final Rejection			0
82	04/17/2011		EML_NTR	Email Notification			0
81	04/12/2011		MPTDI	Mail-Petition Decision - Dismissed			0
80	04/11/2011		PTDI	Petition Decision - Dismissed			0
79	04/04/2011		EML_NTR	Email Notification			0
78	04/04/2011		PA..	Change in Power of Attorney (May Include Associate POA)			0
77	03/31/2011		C.AD	Correspondence Address Change			0
76	03/30/2011		INHY	case Inherited			0
75	03/30/2011		DOCK	Case Docketed to Examiner in GAU			0
73	03/01/2011		FWDX	Date Forwarded to Examiner			0
74	02/25/2011		PET.	Petition Entered			0
72	02/24/2011	02/10/2011	A...	Response after Non-Final Action		14	68
71	02/24/2011		XT/G	Request for Extension of Time - Granted			0
70	11/10/2010		ELC_RVW	Electronic Review			0
69	11/10/2010		EML_NTF	Email Notification			0
68	11/10/2010		MCTNF	Mail Non-Final Rejection			0
67	11/07/2010		CTNF	Non-Final Rejection			0
66	10/06/2010		FWDX	Date Forwarded to Examiner			0
63	10/06/2010		ABN9	Disposal for a RCE / CPA / R129			0
65	10/04/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
64	10/04/2010		RCEX	Request for Continued Examination (RCE)			0
62	10/04/2010		BRCE	Workflow - Request for RCE - Begin			0
61	08/02/2010		ELC_RVW	Electronic Review			0
60	08/02/2010		EML_NTF	Email Notification			0
59	08/02/2010	01/12/2008	MAPDA	Mail BPAI Decision on Appeal - Affirmed	933		40
58	07/29/2010		APDA	BPAI Decision - Examiner Affirmed			0
57	03/27/2009		EML_NTR	Email Notification			0
55	03/27/2009		AP_DK_M	Docketing Notice Mailed to Appellant			0
54	03/25/2009		APAS	Assignment of Appeal Number			0
53	11/12/2008		APWD	Appeal Awaiting BPAI Docketing			0
52	10/07/2008		DOCK	Case Docketed to Examiner in GAU			0
51	04/29/2008		MRBNE	Mail Reply Brief Noted by Examiner			0
50	04/28/2008		RBNE	Reply Brief Noted by Examiner			0
48	02/22/2008		FWDX	Date Forwarded to Examiner			0
49	02/13/2008		APRB	Reply Brief Filed			0
47	02/13/2008		APRB	Reply Brief Filed			0
46	01/10/2008		PACC	Exam. Ans. Review Complete			0
45	12/13/2007		MAPEA	Mail Examiner's Answer			0
44	12/10/2007		APEA	Examiner's Answer to Appeal Brief			0
42	09/29/2007		APBR	Appeal Brief Review Complete			0
41	09/29/2007		FWDX	Date Forwarded to Examiner			0
43	09/20/2007		IRFND	Request for Refund			0
40	09/12/2007		AP.B	Appeal Brief Filed			0
39	07/12/2007	06/20/2007	N/AP	Notice of Appeal Filed		22	33
38	07/12/2007		XT/G	Request for Extension of Time - Granted			0
37	06/13/2007		MCTAV	Mail Advisory Action (PTOL - 303)			0
36	06/11/2007		CTAV	Advisory Action (PTOL-303)			0
35	05/24/2007		FWDX	Date Forwarded to Examiner			0
34	05/21/2007		A.NE	Amendment after Final Rejection			0
33	03/20/2007	03/16/2007	MCTFR	Mail Final Rejection (PTOL - 326)	4		27
32	03/16/2007		CTFR	Final Rejection			0
30	01/18/2007		MAPCR	Mail Appeals conf. Reopen Prosec.			0
31	01/17/2007		FWDX	Date Forwarded to Examiner			0
29	01/11/2007		APCR	Pre-Appeals Conference Decision - Reopen Prosecution			0
28	11/16/2006		AP.C	Request for Pre-Appeal Conference Filed			0
27	11/16/2006	10/26/2006	N/AP	Notice of Appeal Filed		21	25

25	07/26/2006		MCTFR	Mail Final Rejection (PTOL - 326)		0
24	07/24/2006		CTFR	Final Rejection		0
22	05/11/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete		0
21	05/11/2006		FWDX	Date Forwarded to Examiner		0
20	04/27/2006		A...	Response after Non-Final Action		0
17	01/27/2006	07/17/2003	MCTNF	Mail Non-Final Rejection	925	0.5
16	01/23/2006		CTNF	Non-Final Rejection		0
14	01/19/2006		DOCK	Case Docketed to Examiner in GAU		0
13	01/10/2006		DOCK	Case Docketed to Examiner in GAU		0
12	04/15/2005		C.ADB	Correspondence Address Change		0
11	10/24/2004		C.ADB	Correspondence Address Change		0
19	10/24/2003		RCAP	Reference capture on IDS		0
15	10/24/2003		IDSC	Information Disclosure Statement considered		0
10.7	10/24/2003		M844	Information Disclosure Statement (IDS) Filed		0
10	10/24/2003		WIDS	Information Disclosure Statement (IDS) Filed		0
8	09/25/2002		OIPE	Application Dispatched from OIPE		0
7	09/18/2002		COMP	Application Is Now Complete		0
9	09/16/2002		A.PE	Preliminary Amendment		0
6	09/03/2002		ADDFLFEE	Additional Application Filing Fees		0
5	09/03/2002		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems		0
4	06/27/2002		CPAP	Corrected Paper		0
3	05/29/2002		SCAN	IFW Scan & PACR Auto Security Review		0
2	05/17/2002		IEXX	Initial Exam Team nn		0
0.5	05/17/2002		EFILE	Filing date		0

Export to: Excel

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BECK AND TYSVER, PLLC
2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS MN 55416

MAILED

DEC 15 2010

OFFICE OF PETITIONS

In re Application of
James B. Seward, et al.
Application No. 10/150,646
Filed: September 14, 2010
Attorney Docket No. 3778

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 October 14, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by Daniel A. Tysver on behalf of all attorneys of record who are associated with customer No. 21834. All attorneys/agents associated with the Customer Number 21834 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed September 14, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: MAYO FOUNDATION FOR MEDICAL
AND EDUCATIONAL RESEARCH
200 FIRST STREET SW
ROCHESTER, MN 55902

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
10/150,646	05/17/2002	James B. Seward	3778

CONFIRMATION NO. 1709

POWER OF ATTORNEY NOTICE

21834
BECK AND TYSVER P.L.L.C.
2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS, MN 55416

OC00000004872085

Date Mailed: 12/09/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/14/2010.

- 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.

/amwise/

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

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

JUL 19 2011

OFFICE OF PETITIONS

In re Application of :
James B. SEWARD, et *al.* :
Application No. 10/150,646 : DECISION ON PETITION
Filed: May 17, 2002 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **630666.00314** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 14, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 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 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) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555 extension of time fee submitted with the petition on May 12, 2011 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3623 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Thurman K. Page
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)
6948342	2005-09-27	10150749	2002-05-17	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

○ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

◉ The assignee of record of the entire interest

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	/Allan Bolick/	Date (YYYY-MM-DD)	2011-08-30
Name	Allan Bolick		
Enter Reel and Frame Number		Remove	
Reel Number	013222	Frame Number	0986
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. 6948342
Issue Date: September 27,2005
Application No. 10150749
Filed: May 17,2002
Attorney Docket No. 4661-003

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 30,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of August 30,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7211271	2007-05-01	10150752	2002-05-17	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity	Fee	Code	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	/Eddie E. Scott/	Date (YYYY-MM-DD)	2011-05-19
Name	Eddie E. Scott	Registration Number	25220

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7211271
Issue Date: May 1,2007
Application No. 10150752
Filed: May 17,2002
Attorney Docket No. 02307Z-116210US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 19,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 19,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

RONALD M. ANDERSON
MICROSOFT CORPORATION
600 108TH AVENUE N.E., SUITE 507
BELLEVUE WA 98004

MAILED

APR 02 2012

OFFICE OF PETITIONS

In re Patent No. 6,905,414	:	DECISION DISMISSING PETITION
Issue Date: June 14, 2005	:	UNDER 37 CFR 1.78(a)(3) AND
Application No. 10/150,781	:	REQUEST FOR CERTIFICATE OF
Filed: May 17, 2002	:	CORRECTION
Attorney Docket No. MICR0292	:	

This is in response to the PETITION TO ACCEPT UNINTENTIONALLY DELAYED PRIORITY CLAIM UNDER 35 U.S.C. § 120, filed December 23, 2011, to add a claim under 35 U.S.C. § 120 to nonprovisional Application No. 10/147,578 by way of a certificate of correction.

The petition under 37 CFR 1.78 is DISMISSED.

PETITION UNDER 37 CFR 1.78(a)(3)

Patentee seeks to correct the failure to make reference to prior copending application No. 10/147,578 as required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2). A review of the file record fails to disclose that a claim for the benefit of priority to the prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii). Moreover, no petition and amendment were filed during the pendency of the application to include a proper reference to the prior-filed applications as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed May 17, 2002. 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.

As stated in MPEP 1481, a Certificate of Correction can be used, with respect to 35 U.S.C. 120 priority, to correct:

(A) the failure to make reference to a prior copending application pursuant to 37 CFR 1.78(a)(2); or
(B) an incorrect reference to a prior copending application pursuant to 37 CFR 1.78(a)(2).

Where priority is based upon 35 U.S.C. 120 to a national application, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1)[1] must have been met in the application which became the patent to be corrected;
(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and
(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

With respect to the petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3), it 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

[1] 37 CFR 1.78(a)(1) provides that: A nonprovisional application or international application designating the United States of America may claim an invention disclosed in one or more prior-filed copending nonprovisional applications or international applications designating the United States of America. In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior-filed application must be:
(i) An international application entitled to a filing date in accordance with PCT Article 11 and designating the United States of America; or
(ii) Entitled to a filing date as set forth in § 1.53(b) or § 1.53(d) and have paid therein the basic filing fee set forth in § 1.16 within the pendency of the application.

require additional information where there is a question whether the delay was unintentional.

However, patentee has not submitted the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) 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. Such reference must be set forth in an amendment or application data sheet in compliance with §1.121 and separate from the petition.

Receipt of the $1,410 surcharge fee, as well as the $100 certificate of correction fee, is acknowledged.

In view thereof, the petition under 37 CFR 1.78(a)(3) is dismissed.

It is noted that although a favorable decision had not been rendered on this petition and there is no indication that the examiner approved the claim a certificate of correction issued on January 31, 2012. A favorable decision and approval by the examiner was required. Thus, this issue is not moot.

On renewed petition, patentee needs to submit the reference to prior-filed application No. 10/147,578 as required by 37 CFR 1.78(a)(3)(i), set forth in an amendment or application data sheet in compliance with §1.121 and separate from any petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3219.

/Nancy Johnson/

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
www.uspto.gov

MARK O. LOFTIN
2370 HILLCREST ROAD, SUITE. G317
MOBILE, AL 36695

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Patent No. **6,802,481**
Issue Date: October 12, 2004
Application No. 10/150,820
Filed: May 14, 2002
Attorney Docket No. **417043513**

DECISION ON PETITION
UNDER 37 CFR 1.378(C)

This is a decision on the petition under 37 CFR 1.378(c), filed May 21, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on October 12, 2008 for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The patent file is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES 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

JUL 22 2011

OFFICE OF PETITIONS

HARRY A. ROMENO
5072 28TH PLACE SW
NAPLES, FL 34116

In re Application of :
Harry A. Romano :
Application No. 10/150,913 : ON PETITION
Filed: May 20, 2002 :
Attorney Docket No.: None :

This is a decision in response to the petition, filed June 23, 2011, which is being treated under the provisions of 37 CFR 1.181 (no fee) to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

A review of the record discloses that the application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed October 28, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on January 29, 2011. It is noted that a response was filed on December 7, 2010; however, since the response did not place the application in condition for allowance an Advisory Action was mailed on December 20, 2010. On April 28, 2011 and April 29, 2011, respectively, applicant filed a letter indicating that a timely response was filed in view of an amendment filed, via facsimile transmission, on March 18, 2011. An original amendment received March 18, 2011 in not found among the papers found in the file. On June 17, 2011, a Notice of Abandonment was mailed.

On June 23, 2011, the present petition was filed. Petitioner argues, in effect, that the amendment should be considered timely, since the response was filed within the period set in the advisory action, stating "applicant responded to an advisory action with a due date 3/20/11." Accordingly, petitioner requests that the abandonment be withdrawn.

Petitioner's argument is not well taken. It is initially pointed out that the Advisory Action of December 20, 2010 did not operate to reset the response period, but merely reiterated the original response period. Specifically, the Advisory action stated: "The period for reply expires 3 months from the mailing date of the final rejection." Further, it is noted that the amendment of May 18, 2011 was not sent to the central facsimile number, as **required** by the official facsimile policy at 1349 CNOG 2443 and, in any event, the papers of March 18, 2011 did not include an appropriate

petition for extension of time. On March 18, 2011, a two-month extension of time would have been required in order to make a properly filed reply timely.

35 U.S.C. 133 states:

> "[u]pon 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 application, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to satisfactory of the Director that such delay was unavoidable.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay within the meaning of the rule. Without a timely reply, the application became abandoned by operation of law. The abandonment may be overcome upon the filing of a grantable petition to revive under the provisions of 37 CFR 1.137(a) or 37 CFR 1.137(b).

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 an unavoidable petition under 37 CFR 1.137(a).

Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

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) is **$810 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 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).

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application or contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

Further correspondence with respect to this matter should be 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]

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Enclosure

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (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

PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

MAILED
MAY 23 2011
OFFICE OF PETITIONS

In re Patent No. 7,021,174	:	
Issue Date: April 04, 2006	:	
Application No. 10/151,101	:	DECISION ON PETITION
Filed: May 21, 2002	:	
Attorney Docket No. P284424	:	

This is a decision on the petition under 37 CFR 1.378(c), filed April 27, 2011 to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on April 04, 2010 for failure to pay the three and one-half maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

The patent file is being forwarded to Files Repository.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Chauvel et al.	:	
Application No. 10/151,282	:	ON PETITION
Filed: May 20, 2002	:	
Attorney Docket No. TIF-34426	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 26, 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 a Request for Continued Examination (RCE), (2) the petition fee of $1620.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2195 for processing of Request for Continued Examination (RCE) filed under 37 CFR 1.114 filed concurrently with the instant petition.

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

GARDNER GROFF GREENWALD & VILLANUEVA. PC
2018 POWERS FERRY ROAD
SUITE 800
ATLANTA GA 30339

MAILED

DEC 0 6 2011

OFFICE OF PETITIONS

In re Application of :
Todd J. STRONG et al. :
Application No. 10/151,376 : NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 6,863,529 :
Filed: May 20, 2002 :
Attorney Docket No. 02071.0013US2

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

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)
6,572,016	2003-06-03	10/151,378	2002-05-20	144114.00187

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Raye Lynn Daugherty/	Date (YYYY-MM-DD)	2012-03-28
Name	Raye Lynn Daugherty	Registration Number	47933

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 6572016
Issue Date: June 3,2003
Application No. 10151378
Filed: May 20,2002
Attorney Docket No. 085455-9018-02

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 28,2012 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 28,2012 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES 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

CARDICA INC
900 SAGINAW DRIVE
REDWOOD CITY CA 94063

In re
Bombard, et al.
Application No. 10/151,441
Filed: May 20, 2002
Patent No. 7,285,131
Issued: October 23, 2007

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed May 13, 2011.

The fee deficiency submission under 37 CFR 1.28 of $490 for the four year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-3-10 **Paper No.:** _____

TO SPE OF : ART UNIT 215

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/152315 Patent No.: 7114067

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should COC be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young LTE
Randolph Sq. Ste 9D62A
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.

_____

_____

_____

SPE /Thomas Lee/ **ART UNIT** 2115

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 03/26/12

TO SPE OF : ART UNIT 2176

SUBJECT : Request for Certificate of Correction for Appl. No.: 10152453 Patent No.: 7796532

CofC mailroom date: 03/23/12

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580
You can fax the Directors/SPE response to 571-273-3421

Note: Please check Claims 11 and 15
Should the changes to the claims be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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: _____

_____

_____

_____

_____

/Cesar B Paula/ 2177

SPE **Art Unit**

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6,592,172	2003-07-15	10152595	2002-05-21	BUCY 0126 PUSP

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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 E. Stuenkel/	Date (YYYY-MM-DD)	2011-09-13
Name	Mark E. Stuenkel	Registration Number	44364

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 6592172
Issue Date: July 15,2003
Application No. 10152595
Filed: May 21,2002
Attorney Docket No. 29747/37242A

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed September 13,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 13,2011 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

VICTORIA DONNELLY
PO BOX 24001
HAZELDEAN RPO
KANATA ON K2M 2C3 CA CANADA

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of :
Lee, et al. :
Application No. 10/152,832 : NOTICE
Filed: May 23, 2002 :
Attorney Docket No. TR-134-US :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

Bib Data Sheet

CONFIRMATION NO. 8278

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/152,832	05/23/2002 RULE	370	2616	TR-134-US

APPLICANTS

Byoung-Joon Lee, Nepean, CANADA;
Sudhakar Ganti, Kanata, CANADA;
Anand Srinivasan, Kanata, CANADA;
Walter Joseph Carpini, Stittsville, CANADA;
Udo Mircea Neustadter, Carp, CANADA;
Cuong Tu Dang, Ottawa, CANADA;
Vincent Chi Chiu Wong, Ottawa, CANADA;

**** CONTINUING DATA ***************************

This application is a CIP of 10/025,869 12/26/2001 PAT 6,925,061 and claims benefit of 60/362,926 03/11/2002

**** FOREIGN APPLICATIONS *********************

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 06/11/2002

Foreign Priority claimed		STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
35 USC 119 (a-d) conditions met	☐ yes ☐ no ☐ Met after Allowance	CANADA	10	57	2
Verified and Acknowledged	Examiner's Signature Initials				

ADDRESS

AIR MAIL

36630

TITLE

MULTI-CONSTRAINT ROUTING SYSTEM AND METHOD

FILING FEE RECEIVED	FEES: Authority has been given in Paper	
1003	No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Accenture Chicago 28164
Brinks Hofer Gilson & Lione
PO Box 10395
Chicago, IL 60610

In re Patent No. 7,552,205	:	
Lamb et al.	:	DECISION UPON REMAND AND
Issue Date: June 23, 2009	:	RECONSIDERATION OF
Application No. 10/152,890	:	PATENT TERM ADJUSTMENT
Filed: May 21, 2002	:	AND NOTICE OF INTENT
Attorney Docket No. 10022/190	:	TO ISSUE CERTIFICATE OF
Title: Distributed Transaction Event Matching	:	CORRECTION

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

After telephonic voicemail exchange for Accenture with Joel Benson, counsel for Accenture, an agreement as to the correct amount of patent term adjustment has been reached.

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by seven hundred and thirty nine (769) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand seven hundred and thirty nine (769)days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,552,205

DATED : **June 23,2009** **DRAFT**

INVENTOR(S) : Lamb 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 470 days

Delete the phrase "by 470 days" and insert – by 769 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

MAILED

AUG 03 2011

OFFICE OF PETITIONS

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Patent No. 6,681,809 :
Issue Date: January 27, 2004 :
Application No. 10/153,002 : NOTICE
Filed: May 22, 2002 :
Attorney Docket No. 09680.0203US01

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: ROBIC, LLP
1001 Square-Victoria –Bloc E-8th Floor
Montreal, Quebec, Canada H27 2B7

UNITED STATES 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
555 SOUTH FLOWER STREET FIFTIETH FLOOR
LOS ANGELES CA 90071

MAILED
OCT 06 2011
OFFICE OF PETITIONS

In re Patent No. 6,719,789	:	
Issue Date: April 13, 2004	:	
Application No. 10/153,286	:	NOTICE
Filed: May 21, 2002	:	
Attorney Docket No. 3FTHERA.2DCDC3	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 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 petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Kimberly Inabinet/
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kyle Conklin
Sterne, Kessler, Goldstein & Fox
1100 New York Avenue NW
Washington, DC 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

GREER, BURNS & CRAIN
300 S WACKER DR
25TH FLOOR
CHICAGO IL 60606

MAILED

DEC 05 2011

OFFICE OF PETITIONS

In re Application of	:	
Syrus C. NEMAT-NASSAR et al.	:	
Application No. 10/153,502	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: May 22, 2002	:	
Attorney Docket No. 0321.65960	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES 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

DEC 12 2011

OFFICE OF PETITIONS

STOEL RIVES LLP – SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

In re Patent No. 7,467,179 :
Issue Date: December 16, 2008 :
Application No. 10/153,665 : NOTICE
Filed: May 24, 2002 :
Attorney Docket No. 35351/3:1

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY UT 84111

MAILED
DEC 05 2011
OFFICE OF PETITIONS

In re Patent No. 7,024,492 :
Issued: April 4, 2006 :
Application No.: 10/153,666 : NOTICE
Filed: May 24, 2002 :
Attorney Docket No. **35351/2:1** :

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

SEP 07 2010

OFFICE OF PETITIONS

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

In re Application of :
Kato, et al. :
Application No. 10/153,691 : DECISION ON PETITION
Filed: May 24, 2002 :
Atty. Dkt. No.: H6808.0007/P007 :

This is a decision on the petition filed May 26, 2010, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimer filed January 4, 2010 be withdrawn The $400.00 petition fee has been received.

Petitioners assert that, as the claims for which the aforementioned terminal disclaimer was originally proffered have now been amended and/or cancelled to remove the basis for the previous obviousness-type double patenting rejection, there is no further need for the disclaimer to remain recorded against this application. The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion.

The terminal disclaimer filed January 4, 2010 is hereby **WITHDRAWN**.

The petition is **GRANTED**.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

This application is being forwarded to Group Art Unit 1631 for further processing, including updating of USPTO records for the above-identified application for consistency with this decision.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEVINE BAGADE HAN LLP
2400 GENG ROAD, SUITE 120
PALO ALTO, CA 94303

MAILED

JAN 12 2011

OFFICE OF PETITIONS

In re Application :
Pei et al. :
Application No. 10/154,449 :
Filed: May 21, 2002 :
Attorney Docket No. SRIN-N-A103.00-US :

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 26, 2010.

The request is **DISMISSED** because it is moot.

A review of the file record indicates that Levine Bagade Han LLP was revoked by the assignee of record. 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: BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH, PA 15205

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Application of
Mark Joseph EDWARDS
Application No. 10/154,655
Filed: May 24, 2002
Attorney Docket No. 2001-0686.02

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 11, 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 Corrected Application Papers mailed May 25, 2010. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the application became abandoned on July 26, 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 $1,620.00, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Corrected Application Papers of May 25, 2010 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to the Office of Data Management.

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

Lerner, David, Littenberg,
Krumholz & Mentlik, LLP
600 South Avenue West
Westfield NJ 07090

MAILED
JUL 26 2011
OFFICE OF PETITIONS

In re Application of :
Derk P. Brouwer :
Patent No. 7,613,649 : NOTICE
Application No. 10/154,689 :
Filed: May 24, 2002 :
Attorney Docket No. **DAVIDK 3.9-005 CIP**

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 July 05, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-2783.

/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

Gary Dunn
289 N.W. 68th Ave.
Ocala FL 34482-8232

MAILED
APR 20 2011
OFFICE OF PETITIONS

In re Patent No. 6,860,573 :
Issue Date: March 1, 2005 :
Application No. 10/154,908 : ON PETITION
Filed: May 28, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.378(c), filed January 31, 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.

It is further noted that the typed name of David Hallam was not followed by a signature. If this person is an assignee, then a statement under 37 CFR 3.73(b) should be submitted with a renewed petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Further correspondence with respect to this matter should be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to the Kimberly Inabinet at (571) 272-4618.

/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

Gary Dunn
289 N.W. 68th Ave.
Ocala FL 34482-8232

MAILED

AUG 01 2011

OFFICE OF PETITIONS

In re Patent No. 6,860,573 :
Issue Date: March 1, 2005 :
Application No. 10/154,908 : ON PETITION
Filed: May 28, 2002 :
Attorney Docket No. :

This is a decision on the petition under 37 CFR 1.378(b), filed July 14, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

As to item (1), petitioner states that former owners of the patent New Path Capital One, Inc, failed to pay the 3 ½ maintenance fee, which was due no later than midnight of March 1, 2009. The assignment from Gary D. Dunn to DHR Industries, Inc. was executed on November 13, 2009, eight months after the expiration of the patent. The Office was not aware of any assignments being filed to this company. A statement from New Path Capital One should be provided as to why the maintenance fee was not paid timely. Even though assignment documents may not have been timely filed with the Assignment Branch, it is the inventors' responsibility to ensure timely filing of papers and/or payments that are due.

During the period of time between the expiration date of the patent (March 2, 2009) and the filing of the unintentional petition to accept the delayed payment of the maintenance fee (January 31, 2011), when and how did the petitioner become aware of the expired patent?

There is also a second inventor associated with this case, Carole Anne Dunn, were her interests in this case also assigned?

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

37 CFR 1.378(b)(3) states that any petition to accept delayed payment of a maintenance fee must include:

> "A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date, and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly."

If petitioner does not wish to pursue reinstatement of this expired patent, petitioner may request a refund of the $490 maintenance fee and the $1,640 surcharge fee submitted with the petition. The request should be made in writing and addressed to: Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of the previous decision mailed April 20, 2011, should accompany petitioner's request.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By Hand: U. S. Patent and Trademark Office

Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

MAILED

SEP 14 2010

OFFICE OF PETITIONS

In re Patent No. 7,666,997 :
Issue Date: February 23, 2010 :
Application No. 10/155,059 : ON PETITION
Filed: May 24, 2002 :
Attorney Docket No. 00530-0164002 :

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) 272-6059.

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
www.uspto.gov

MAILED

SEP 28 2010

OFFICE OF PETITIONS

King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

In re Application :
Gartstein, et al. :
Application No. 10/155,108 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 24, 2002 :
Dkt. No.: 68009-8110 :

This is in response to the application for patent term adjustment filed September 10, 2010. This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

The application for patent term adjustment is DISMISSED.

The Notice of Allowance mailed June 10, 2010 indicates that that the application is entitled to a patent term adjustment of 394 days. The instant application for patent term adjustment was timely filed in accordance with 37 CFR 1.705(b).

Applicants assert that the instant application is entitled to 418 days of adjustment pursuant to 37 CFR 1.702(b).

Applicants assert that the patent term adjustment is subject to a post-allowance three day reduction in connection with the August 16, 2010 submission.

Applicants assert that the application is entitled to an adjustment of 893 days, not 894 days, pursuant to 37 CFR 1.702.(a)(1).

Applicants contest the pre-allowance reductions totalling 500 days and assert that the correct pre-allowance reductions total 482 days.

37 CFR 1.702(b) and Post-Allowance Reductions

Insofar 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 and assert that the adjustment is subject to a three day post-allowance reduction, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years.

See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent 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.

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 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). The patent term adjustment indicated on the patent will also include any additional reductions for applicant delays.

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).

37 CFR 1.702(a)(1)

---

[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.

Applicants assert that the application is entitled to 893 days of patent term adjustment in connection with the mailing of the non-final Office action on January 3, 2006.

A review of the record reveals no error in the adjustment accorded pursuant to 37 CFR 1.702(a)(1). The reduction commenced July 25, 2003, the day after the date that is 14 months after the date that the application was filed, ended 894 days later on January 3, 2006, the date that the non-final Office action was mailed.

The request for correction of patent term adjustment in this regard is DISMISSED.

37 CFR 1.704(b)

Applicants appear to dispute the entire reduction of patent term adjustment of 500 days. Applicants calculate the various periods of reduction based on the date that applicants mailed each reply to the USPTO.

Applicant's attention is directed to MPEP 2731 wherein it states in part:

> "Moreover, 37 CFR 1.703(f) provides that the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in this calculation. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation."

As the date of receipt of correspondence is the date used for the purposes of calculating patent term adjustment and reduction, the reductions totalling 500 days will not be reconsidered.

Accordingly, the request for reconsideration of the 500 days of reduction of patent term reduction is DISMISSED.

CONCLUSION

Accordingly, at the time of allowance, the application was entitled to an overall adjustment of 394 days, as indicated in the Determination of Patent Term Adjustment mailed June 10, 2010.

Receipt is hereby acknowledged of the $200.00 patent term adjustment application fee required per 37 CFR 1.705(b)(1).

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 decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOLEY & LARDNER LLP
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Patent No. 6,804,628 :
Issue Date: October 12, 2004 :
Application No. 10/155,155 : NOTICE
Filed: May 28, 2002 :
Attorney Docket No. 64098/354 :

This is a notice regarding your communication filed September 8, 2010, which is being treated as a request for acceptance of a fee deficiency submission under 37 CFR 1.28(c).

The request is **DISMISSED**.

Counsel asserts that the first maintenance fee was incorrectly paid at the small entity rate and now wishes to pay the large entity portion of the maintenance fee in the amount of $515.00 to be charged to deposit account no. 04-0750.

The request for acceptance of a fee deficiency submission under 37 CFR 1.28 (c) is dismissed because the request is not signed by a proper party. Counsel is encouraged to note 37 CFR 1.33(b) which reads:

> (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
> (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
> (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under §3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Applicant is given **ONE MONTH** to submit a properly signed request listing the fees erroneously paid as a small entity and the total fee deficiency to avoid the return of the present fee deficiency paper. This time period is not extendable under 37 CFR 1.136(a).

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:

DENNEMEYER & CO LTD
P.O. BOX 1502
l-1015 LUXEMBOURG

UNITED STATES 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
321 NORTH CLARK STREET
SUITE 2800
CHICAGO IL 60654-5313

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Patent No. 6,804,628 :
Issue Date: October 12, 2004 :
Application No. 10/155,155 : NOTICE
Filed: May 28, 2002 :
Attorney Docket No. 64098/354 :

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 on February 3, 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

Paper No.: _____

DATE : November 17, 2010

TO SPE OF : ART UNIT 2614 - SPE .

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/155,531 Patent No.: 6,882,712 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 Building
2800 South Randolph Street
Arlington, VA 22206

Antonio

Johnson

Should the claims 30-36 in printed patent be cancelled?
See COCIN dated 02-26-2010

Certificates of Correction Branch

(571)272-0483

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: Claims 30-36 (original claims 53-59) were withdrawn in Applicant's response to a restriction requirement (Response was filed 3/11/2004). Claims 30-36 should be cancelled.

SPE_/Curtis

Kuntz/_____ **Art Unit __2614_____**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 17, 2010

TO SPE OF : ART UNIT 2614 - SPE Curtis Kuntz

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/155,531 Patent No.: 6,882,712 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 Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should the claims 30-36 in printed patent be cancelled?
See COCIN dated 02-26-2010

_____
Certificates of Correction Branch
(571)272-0483

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: Claims 30-36 (original claims 53-59) were withdrawn in Applicant's response to a restriction requirement (Response was filed 3/11/2004). Claims 30-36 should be cancelled.

_____

_____ **SPE_/Curtis Kuntz/**_____ **Art Unit** __2614_____

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

MAILED

SEP 3 0 2010

OFFICE OF PETITIONS

In re Application of :
Shimon Weiss, et al. :
Application No. 10/155,759 : NOTICE
Patent No. 6,927,069 :
Filed: May 24, 2002 :
Attorney Docket No. LBLB-002CON2

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) 272-2991.

/Terri Johnson/
Terri Johnson
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)
7,112,134	2006-09-26	10/155,820	2002-05-24	23420-031

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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.

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	/MartinErlichman/	Date (YYYY-MM-DD)	2011-08-05
Name	Martin Erlichman		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7112134
Issue Date: September 26,2006
Application No. 10155820
Filed: May 24,2002
Attorney Docket No. 1305

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed August 5,2011 ,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 5,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES 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

JUL 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,966,373 :
Issued: June 21, 2011 :
Application No. 10/155,836 : ON PETITION
Filed: May 24, 2002 :
Attorney Docket No. DLGC.003CP1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed June 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.**

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

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)
7170941	2007-01-30	10/155,966	2002-05-29	

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
◉	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	/Nathaniel D. McQueen/	Date (YYYY-MM-DD)	2011-06-16
Name	Nathaniel D. McQueen	Registration Number	53308

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES 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. 7170941
Issue Date: January 30,2007
Application No. 10155966
Filed: May 29,2002
Attorney Docket No. 004687.00001

:
: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)
6998653	2006-02-14	10156134	2002-05-29	ID 002311

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/SMG/	Date (YYYY-MM-DD)	2011-01-06
Name	Steven M. Gruskin	Registration Number	36818

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6998653
Issue Date: February 14,2006
Application No. 10156134
Filed: May 29,2002
Attorney Docket No. 026905-014

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed January 6,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 6,2011 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MARKS & CLERK
P.O. BOX 957
STATION B
OTTAWA, ON K1P 5S7
CANADA

Mail Date: 08/02/2010

Applicant	: Satvinder Singh Bawa	: DECISION ON REQUEST FOR
Patent Number	: 7650398	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/156,228	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/29/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1993** 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

KATTEN MUCHIN ROSENMAN LLP
(C/O PATENT ADMINISTRATOR)
2900 K STREET NW, SUITE 200
WASHINGTON DC 20007-5118

MAILED
OCT 18 2011
OFFICE OF PETITIONS

In re Application of :
Surles, Anita :
Application No. 10/157,126 : DECISION ON PETITION
Filed: May 30, 2002 :
Attorney Docket No. 214654-00003 :

This is a decision on the Petition for Revival of an Application under 37 CFR 1.135, filed October 4, 2011, 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 based on non-receipt of the Office action.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 9, 2011 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 9, 2011. *See* MPEP 1214.06. A Notice of Abandonment was mailed August 25, 2011.

Petitioner asserts that the Office action dated June 9, 2011 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

(1) 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.

(2) A statement from the practitioner 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.

(3) 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.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact. In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Petitioner states, "Applicant is concurrently filing a Continuation Application as the required reply." The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above-identified application is again abandoned in favor of the continuation application.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

NOV 03 2010

OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

In re Patent of Fu et al.	:	DECISION ON REQUEST
Patent No. 7,574,139	:	FOR RECONSIDERATION OF
Issue Date: August 11, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/157,900	:	AND NOTICE OF INTENT TO
Filing Date: May 31, 2002	:	ISSUE CERTIFICATE OF
Atty. Docket No. 13854-0068001/79569-9	:	CORRECTION

This is a decision on the request for reconsideration under 37 C.F.R. § 1.705(d) filed June 10, 2010, requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the patent is extended or adjusted by one thousand five hundred eighty-seven (1587) days.

The petition to correct the patent term adjustment indicated on the patent to indicate the term of the patent is extended or adjusted by one thousand five hundred eighty-seven (1587) days is **GRANTED**.

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 patent is extended or adjusted by **one thousand five hundred eighty-seven (1587)** 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.	:	7,574,139 B2
APPLICATION NO.	:	10/157,900
DATED	:	August 11, 2008
INVENTOR(S)	:	Xialoi 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 1327 days.

Delete the phrase "by 1327 days" and insert -- by 1587 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

ELLSWORTH R. ROSTON
FULWIDER PATTON
LEE & UTECHT LLP
10TH FLOOR
6060 CENTER DRIVE
LOS ANGELES CA 90045

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Patent No. 6,976,180 :
Issue Date: 13 December, 2005 :
Application No. 10/158,266 : DECISION ON PETITION
Filed: 30 May, 2002 :
Attorney Docket No. DUALC-59339 :

This is a decision on the petition filed on 12 February, 2010, properly treated as a petition pursuant to 37 C.F.R. §1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

NOTE: *The address on the petition is different than that of record.*

If Petitioner desires to receive future correspondence regarding this application, the appropriate Notice must be submitted.

A courtesy copy of this decision will be mailed to Petitioner.

However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The petition and fee were submitted by the averred registered practitioner.

BACKGROUND

Patent No. 6,976,180 (the '180 patent) issued on 13 December, 2005. The first maintenance fee could have been paid during the period from 13 December, 2008, through midnight 13 June, 2009, or, with a surcharge, during the period from 14 June, 2009, through midnight 13 December, 2009. Accordingly, the patent expired after midnight 13 December, 2009, for failure to pay timely the first maintenance fee.

Patent No. 6,976,180
Application No. 10/158,266

The instant petition was filed on 12 February, 2010. Because the petition was submitted within twenty-four months after the six-month grace period provided in 37 C.F.R. §1.362(e), the petition was timely filed under the provisions of 37 C.F.R. §1.378(c).

The petition pursuant to 37 C.F.R. §1.378(c) is **GRANTED**.

The maintenance fee is hereby accepted—the appropriate fees were submitted *via* credit card—and the above-identified patent is reinstated as of the mail date of this decision.

The patent file is being returned to IFW Files Repository.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

cc
HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
637 MAIN STREET
HALF MOON BAY, CA 94019

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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)
6862440	2005-03-01	10158734	2002-05-29	P146US1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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. 6862440
Issue Date: March 1,2005
Application No. 10158734
Filed: May 29,2002
Attorney Docket No. P146US1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 1,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of October 1,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BALLY GAMING INC.
6601 S. BERMUDA ROAD
LAS VEGAS NV 89119

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,416,484 :
Issued: August 26, 2008 :
Application No. 10/158,744 : NOTICE
Filed: May 29, 2002 :
Attorney Docket No. 83336.1531 :

This is in response to the papers filed August 30, 2011 under 37 CFR 1.27(g)(2) requesting that status as a Small Entity be removed and the request for acceptance of a fee deficiency submission under 37 CFR 1.28.

In accordance with the August 30, 2011 request under 37 CFR 1.27(g)(2), status as a Small Entity has been removed.

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 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 AS MOOT.**

According to USPTO records, the large entity $1,440.00 issue fee was paid on July 24, 2008. Therefore, there is no issue fee deficiency payment required. Applicant has submitted an unnecessary deficiency fee of $720.00. This amount will be refunded to applicant's deposit account in due course.

Additionally, a courtesy copy of this decision is being mailed to the address given on the request; 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: Brooke W. Quist
Steptoe & Johnson LLP
2121 Avenue of the Stars
Suite 2800
Los Angeles, CA 90067

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)
6824794	2004-11-30	10159135	2002-05-31	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			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	/###/Thomas Smokoff/	Date (YYYY-MM-DD)	2010-11-16
Name	Thomas Smokoff		

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 6824794
Issue Date: November 30,2004
Application No. 10159135
Filed: May 31,2002
Attorney Docket No. 2889-4852.1US

:
: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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7-18-11

TO SPE OF : ART UNIT 2437

SUBJECT : Request for Certificate of Correction for Appl. No.: 10159220 Patent No.: 7921284

CofC mailroom date: 7-12-11

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 – 9D40-E
Palm Location 7580

Note: _____ Omega Lewis

703-756-1575

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

XApproved	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments: All changes requested are approved.

/Eleni Shiferaw/ 2437
SPE **Art Unit**

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in View of Wyeth

PTO/SB/131 (02-10)
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 1965, 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:	12732-0105001		
Application Number:	10/159,288	Filing Date (or 371(b) or (f) Date):	June 3, 2002
Patent Number:	7,663,613	Issue Date:	February 16, 2010
First Named Inventor:	Yukio Tanaka		
Title:	Image Display Device and Driving Method Thereof		

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	8/12/10
Name: (Print/Type)	John F. Hayden		Registration Number: 37640

Note: *Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below**.*

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 08/18/2010

Applicant	: Yukio Tanaka	: DECISION ON REQUEST FOR
Patent Number	: 7663613	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/159,288	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/03/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **982** 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

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.
10/159,344	05/31/2002	David Pullman	359.1001	8557

23280 7590 06/21/2011

Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York, NY 10018

EXAMINER	
MEINECKE DIAZ, SUSANNA M	
ART UNIT	PAPER NUMBER
3684	
MAIL DATE	DELIVERY MODE
06/21/2011	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

BEFORE THE
BOARD OF PATENT APPEALS AND INTERFERENCES

Ex parte DAVID PULLMAN

Appeal 2010-012448
Application 10/159,344
Technology Center 3600

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 1.182", filed June 6, 2011. *See* 75 Fed. Reg. 15,690 (Mar. 30, 2010) for authority of the Chief Administrative Patent Judge.

FINDINGS

1. On March 29, 2010, Appellant filed a Notice of Appeal.
2. On June 29, 2010, Appellant filed an Appeal Brief.
3. On July 21, 2010, the Examiner mailed an Examiner's Answer to Appellant.
4. On September 7, 2010, the Appellant filed a Reply Brief.
5. On September 20, 2010, the Examiner considered the Reply Brief.
6. On September 29, 2010, the Board of Patent Appeals and Interferences mailed a Docketing Notice to Appellant, assigning the Appeal Number 2010-012448.

7. On June 6, 2011, Appellant filed a Request for Oral Hearing, a Request for Continued Examination, a Notice of Appeal, and the Petition Under 37 C.F.R. § 1.182.

8. Appellant's Petition requests "the Director to waive the requirement provided for in 37 C.F.R. 41.47(b), to accept the attached Request for an Oral Hearing submitted herewith (1 page), and to have the Board schedule an Oral Hearing in the present appeal".

9. On June 7, 2011 the fees for the Petition Under 37 C.F.R. § 1.182, the Notice of Appeal, Request for Oral Hearing, and the Request for Continued Examination were charged to Appellant's Deposit Account.

10. The Manual of Patent Examining Procedure (MPEP) (8th Ed., Rev. 8, July 2010), clearly states in section 706.07(III) that:

> Treatment of Conditional RCE
> If a submission is accompanied by a "conditional" RCE and payment of the RCE fee under 37 CFR 1.17(e) (*i.e.*, an authorization to charge the 37 CFR 1.17(e) fee to a deposit account in the event that the submission would not otherwise be entered), the Office will treat the "conditional" RCE and payment as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed.

MPEP § 706.07(h), 700-96.

11. The MPEP § 706.07(h) also states, in subsection X that:

> If an applicant files an RCE under 37 CFR 1.114 after the filing of a Notice of Appeal to the Board of Patent Appeals and Interferences (Board), but prior to a decision on the appeal, it will be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner, regardless of whether the RCE is proper or improper. See 37 CFR 1.114(d). The Office will

> withdraw the appeal upon the filing of an RCE. Applicants should advise the Board when an RCE under 37 CFR 1.114 is filed in an application containing an appeal awaiting decision. Otherwise, the Board of Patent Appeals and Interferences may refuse to vacate a decision rendered after the filing (but before the recognition by the Office) of an RCE under 37 CFR 1.114.

MPEP § 706.07(h), 700-100.

DISCUSSION

Because MPEP § 706.07 clearly states that the Patent and Trademark Office "will treat the 'conditional' RCE and payment as if an RCE and payment of the fee set forth in 37 CFR 1.17(e) had been filed," the filing of the RCE by Appellant makes the Petition to waive the requirement of 37 CFR § 41.47(b) **MOOT**. Accordingly, an Order Dismissing the Appeal will follow this decision. Once the Order has been mailed, the jurisdiction of the application will return to the Technology Center for the processing of the Request for Continued Examination.

DECISION

In view of the foregoing, the Petition Under 37 C.F.R. § 1.182, to waive the requirements of 37 CFR§ 41.47(b) is DISMISSED as being Moot.

James D. Smith
Chief Administrative Patent Judge

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/6/11

TO SPE OF : ART UNIT: 1634

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/159,563 Patent No. 7,655,397

CofC mailroom date 11/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch

703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

X Approved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

/Dave Nguyen/
1634

UNITED STATES 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 02 2010

OFFICE OF PETITIONS

JEAN NORRID
1916 S. LOGAN ST.
DENVER, CO 80210

In re Patent No. 6,902,086 :
Issue Date: June 7, 2005 :
Application No. 10/159,631 : DECISION ON REQUEST FOR REFUND
Filed: May 30, 2002 :
Attorney Docket No. 4070-00101 :

This is a decision on the Request For Refund filed July 15, 2010.

The request is **DISMISSED**.

Applicant request a refund of the petition and maintenance fees paid on May 26, 2010 to reinstate the above patent. However, the petition to reinstate the above patent was granted on July 19, 2010. Therefore, the request is dismissed.

Applicant is encouraged to note MPEP 607.02 which states:

When an applicant or patentee takes an action "by mistake" (e.g., files an application or maintains a patent in force "by mistake"), the submission of fees required to take that action (e.g., a filing fee submitted with such application or a maintenance fee submitted for such patent) is **not** a "fee paid by mistake" within the meaning of 35 U.S.C. 42(d).

37 CFR 1.26(a) also provides that a change of purpose after the payment of a fee, as when a party desires to withdraw the filing of a patent application for which the fee was paid, will not entitle the party to a refund of such fee.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

MAILED

DEC 03 2010

OFFICE OF PETITIONS

In re Application of	:	
Michael G. Kaplitt, et al.	:	
Application No. 10/159,968	:	DECISION GRANTING PETITION
Filed: May 31, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 600-1-286N	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, December 2, 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 November 15, 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 1633 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

Patent No. : 7007163
Serial No. : 10/160143
Inventor(s) : TARDO et al.
Issued : 02/28/2006
Title : METHODS AND APPARATUS FOR ACCELERATING SECURE SESSION PROCESSING
Docket No. : 2875.0860000

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

An error on a patent can be corrected by a certificate of correction, if appropriate. Accordingly, a petition under C.F.R. 1.182 is required to correct the alleged error in the inventor's name since inventor's name (s) are printed solely in accordance with the Typewritten name (s), and since the error was the result of applicant's failure to comply With the requirement that the complete and correct name (s) be indicated on the Declaration or Oath, no correction is in order here under provisions of Rules 1.322, unless a petition is granted.

In view of the foregoing, your request is hereby denied.

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX

By Mail: Commissioner of Patent and Trademarks
Box DAC
Washington, D.C. 20231

By Fax: (571) 272-3218
ATTN: Office of Petitions

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted. The patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100).

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 10/08/2010

Address: Robert Sokohl
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 New York Avenue, N.W.
Washington, D.C. 20005-3934

ts/md

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/26/10

TO SPE OF : ART UNIT 2618 Maung Nay (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/160357 Patent No.: 7747243

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-A
Palm Location 7580

[signature]
Certificates of Correction Branch
703-756-1571 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☒ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Changes do not apply to claims 9 and 10, the applicant wants to change the independent method claim 9 to dependent system claim depend on claim 3, but claim 3 is also a method claim, and if entered, other claims which depended on claim 9 and 10 will need renumber as well. The rest of the corrections should be entered.

/Nay A. Maung/ — **SPE**

2618 — **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

MARK F. SMITH
905 OHIO-PIKE
CINCINNATI, OH 45245

MAILED

DEC 06 2010

OFFICE OF PETITIONS

In re Patent No. **7,032,534**	:	
Issue Date: April 25, 2006	:	
Application No. 10/160,486	:	DECISION ON PETITION
Filed: May 31, 2002	:	UNDER 37 CFR 1.378(c)
Attorney Docket No. **KEC-003PAT**	:	

This is a decision on the petition under 37 CFR 1.378(c), filed July 16, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired at midnight on April 25, 2010 for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

The patent file is being forwarded to Files Repository.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
AUG 19 2011
OFFICE OF PETITIONS

In re Application of :
Rollins :
Application No. 10/160,590 : DECISION
Filed/Deposited: 31 May, 2002 :
Attorney Docket No. PT03357U :

This is a decision on the papers filed on 10 August, 2011, 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 Allowance/Allowability and Fees Due mailed on 25 March, 2011, with reply due under a non-extendable deadline on or before 27 June, 2011.

The application went abandoned by operation of law after midnight 27 June, 2011.

The Office mailed the Notice of Abandonment on 18 July, 2011.

On 10 August, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—but while Petitioner submitted what was averred to have been docket sheet (case file history) for the application, Petitioner failed to provide a due date calendar (27 June, 2011) for the firm and make the statements consistent with the guidance in the Commentary at MPEP §711.03(c)(I). Thus, Petitioner failed to timely and properly make the showing required as set forth in the guidance in the Commentary at MPEP §711.03(c)(I).

The guidance in the Commentary at MPEP §711.03(c)(I) provides in pertinent part as to nonreceipt:

***

> 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]

***

A Petitioner unable to comply with and/or otherwise satisfy these requirements may 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.[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]

---

[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. §11.18 (formerly 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).

[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.))

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 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 pursuant to 37 C.F.R. §1.137(b) requesting revival of an application abandoned due to unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

---

[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).

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[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Application of :
Rollins :
Application No. 10/160,590 : DECISION
Filed/Deposited: 31 May, 2002 :
Attorney Docket No. PT03357U :

This is a decision on the papers filed on 29 August, 2011, 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, and in the alternative 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. §1.181 is **DISMISSED**; the petition pursuant to 37 C.F.R. §1.137(b) 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 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 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 Allowance/Allowability and Fees Due mailed on 25 March, 2011, with reply due under a non-extendable deadline on or before 27 June, 2011.

The application went abandoned by operation of law after midnight 27 June, 2011.

The Office mailed the Notice of Abandonment on 18 July, 2011.

On 10 August, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181—but while Petitioner submitted what was averred to have been docket sheet (case file history) for the application, Petitioner failed to provide a due date calendar (27 June, 2011) for the firm and make the statements consistent with the guidance in the Commentary at MPEP §711.03(c)(I). Thus, Petitioner failed to properly make the showing required as set forth in the guidance in the Commentary at MPEP §711.03(c)(I). The petition was dismissed on 19 August, 2011.

On 23 August, 2011, Petitioner re-advanced the prior petition and filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b) with a reply in the form of, *inter alia*, the fees due, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

[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).

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]))

As to the Request to Withdraw the Holding of Abandonment

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)

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. §1.181 is **dismissed**., however, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

---

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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 Publications Branch in response to this decision. It is noted that all inquiries with regard to status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however , that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attdance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUNSTEIN KANN MURPHY &TIMBERS LLP
125 SUMMER STREET
Boston, MA 0210-1618

Group 3700

FEB 25 2011

In re Application of
Lang et al
Serial No.: 10/160,667
Filed: May 28, 2002
Attorney Docket No.: 2960/103

: PETITION DECISION

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed September 26, 2007. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all the requirements for acceptance of color drawings. This is not be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact Cris L Rodriguez, by mail addressed to: Director, Technology Center 3700, at the address listed above, or by telephone at 571-272-4964 or by facsimile transmission at 571-273-8300.

Cris L. Rodriguez
SPE, Art Unit 3732
February 23, 2011

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/12/2011

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/161089 Patent No.: 7609292B2

CofC mailroom date: 6/28/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

_____

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: All changes are approved, as shown in the COCIN documents.

8/9/2011
nhn

/Kwang B. Yao/

SPE

2473

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

MARSHALL GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606-6357

MAILED

SEP 2 0 2010

OFFICE OF PETITIONS

In re Patent No. 7,410,639 :
Issue Date: August 12, 2008 :
Application No. 10/161,694 : NOTICE
Filed: June 5, 2002 :
Attorney Docket No. 28967/5454F

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED
FEB 13 2012
OFFICE OF PETITIONS

BELASCO, JACOBS & TOWNSLEY LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST
14TH FLOOR
LOS ANGELES CA 90045

In re Patent No. 6,671,999
Issue Date: January 6, 2004
Application No. 10/162,002
Filed: May 30, 2002
Attorney Docket No. 02-023-JB

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed January 9, 2012, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on January 6, 2012, for failure to pay the seven and one-half year maintenance fee.

Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

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)
7,080,469	2006-07-25	10/162,166	2002-06-03	PGANSB

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Thompson E. Fehr/	Date (YYYY-MM-DD)	2010-08-27
Name	Thompson E. Fehr	Registration Number	31353

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7080469
Issue Date: July 25,2006
Application No. 10162166
Filed: June 3,2002
Attorney Docket No. PGANSB

:
: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.

UNITED STATES 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

SEP 27 2010

OFFICE OF PETITIONS

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

In re Patent No. 7,774,279	:	DECISION ON REQUEST
Wang et al.	:	FOR
Issue Date: August 10, 2010	:	RECONSIDERATION OF
Application No. 10/162,212	:	PATENT TERM ADJUSTMENT
Filed: June 5, 2002	:	and
Atty Docket No. 111325-230300	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition pursuant to 37 C.F.R. § 1.705(d), filed on August 26, 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 two thousand, three hundred and thirty-seven (2337) 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 and fifty-three (2053) days is **GRANTED to the extent indicated herein.**

Patentee has indicated that this patent is not subject to a terminal disclaimer.[1]

This patent issued on August 10, 2010, with a patent term adjustment of 1954 days.

The Office has determined that the patent term adjustment for the above-identified patent is **2053 days.**

[1] Petition, page 3.

The Office agrees that the period of examination delay is 1991 (563 + 1428) days.[2]

First, Patentee has calculated the period of B-delay to be 465 days, when the correct period is 237 days. This application was filed on June 5, 2002, and this application matured into U.S. Patent no. 7,774,279 three years and 1892 days later. As Patentee has indicated, the over-three year period that is consumed by appellate review is not included in the B delay. A notice of appeal was filed on January 19, 2006, and a decision from the Board of Patent Appeals and Interferences was mailed on December 16, 2009: this results in a period of exclusion of 1428 days (the day on which the notice of appeal was filed is included in the period of exclusion).

Moreover, the overlap between the over-three-year period and the 1428-day period of examination delay that commences on January 19, 2006 and ends on December 16, 2009 is 227 days.

It follows that the B delay is 237 (1892 - 1428 excluded - 227 overlap).

Second, Patentee has miscalculated one period of applicant delay. 37 C.F.R. § 1.704(c)(10) indicates 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…

A notice of allowance was mailed on March 19, 2010. A declaration was received on May 20, 2010, and an office communication acknowledging the receipt and the entry of the

---

[2] Petition, page 2.

same was mailed 28 days later on June 17, 2010. This constitutes 29 days of applicant delay pursuant to 37 C.F.R. § 1.704(c)(10), not 28 days, as the day on which the declaration was received is included in the period.

Third, Patentee has omitted one period of applicant delay. A declaration was received on June 17, 2010, and the patent issued 54 days later on August 10, 2010. This constitutes 55 days of applicant delay pursuant to 37 C.F.R. § 1.704(c)(10).

It follows that the applicant delay totals 175 (91 + 29 + 55) days.

As such, the patent term adjustment is increased by 2053 (1991 days of examination delay plus 237 "B-delay" minus 175 days of Applicant delay) days, not 2337 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 C.F.R. § 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 37 C.F.R. § 1.136.

This patent is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two thousand and fifty-three (2053) days.**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3225.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,774,279 B2

DATED : **August 10, 2010** **DRAFT**

INVENTOR(S) : Wang et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1954 days

Delete the phrase "by 1954 days" and insert – by 2053 days--

27 AUG 2010

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of LUCAS et al.
Application No.: 10/162,553 : DECISION ON PETITION
Filing Date: 28 February 2002
Attorney Docket No.: BJS-5090-2 : UNDER 37 CFR 1.78(a)(3)
For: TNF-DERIVED PEPTIDES FOR USE
IN TREATING OEDEMA

This is a decision on Petitioner's "Request for Reconsideration of Rule 78(a)(3) Petition", filed 09 June 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the nonprovisional application identified in the concurrently filed amendment to the specification.

At the time of filing the present application, applicant did not make a proper claim for domestic priority. Thus, the filing of a petition under 37 CFR 1.78(a)(3) is necessary. Such petition is hereby **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.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this instant application is entitled to the benefit 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. §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 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 this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Cynthia M. Kratz at (571) 272-3286. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

/Bryan Lin/
Bryan Lin
Legal Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

MAILED

NOV 03 2010

PCT LEGAL ADMINISTRATION

In re Patent of :
BLOM et al :
Application No.: 10/162,708 : DECISION ON PETITION
Patent No.: 6,984,665 : UNDER 37 CFR 1.78(a)(3)
Filing Date: June 6, 2002 :
Attorney Docket No.: 13601-274

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 15, 2010, to accept 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 request for certificate of correction filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 37 CFR 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.

MPEP 201.11, Section III. C., states in relevant part,

> Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. . . . Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for

> example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. (Emphasis added.)

In the present case, the intermediate application (i.e. international application PCT/FI2001/000414) does not contain a proper reference (i.e. stating that application PCT/FI2001/000414 is a continuation of U.S. Application number 09/625,199) to the parent application. Applicant must file a grantable petition under 37 CFR 1.78(a)(3) in international application PCT/FI2001/000414 to add the required reference before a petition under 37 CFR 1.78(a)(3) can be granted in the present application.

The present petition is further dismissed because the required reference has not been presented in the form of an amendment to the present application. Applicant is advised that a certificate of correction to a patent is not deemed an amendment to the patent application as required by 35 U.S.C. 120.

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.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

MAILED

FEB 01 2011

PCT LEGAL ADMINISTRATION

In re Patent of :
BLOM et al :
Application No.: 10/162,708 : DECISION ON PETITION
Patent No.: 6,984,665 : UNDER 37 CFR 1.78(a)(3)
Filing Date: June 6, 2002 :
Attorney Docket No.: 13601-274

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 27, 2010, to accept 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 supplemental application data sheet filed concurrently with the instant petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is 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).

A petition for acceptance of a late claim for 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 37 CFR 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an application data sheet, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by

37 CFR 1.17(t) has been submitted; and (3) petitioner has submitted an acceptable statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application 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 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. 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 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.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to the Certificate of Correction Branch.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration
(571) 272-3303

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
10/162,708	06/06/2002	1618	735	13601-274	13	2

CONFIRMATION NO. 6494

CORRECTED FILING RECEIPT

80711
Brinks Hofer Gilson & Lione/Ann Arbor
524 South Main Street
Suite 200
Ann Arbor, MI 48104

OC000000045777019

Date Mailed: 02/01/2011

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)

Taru Blom, Nousiainen, FINLAND;
Paula Gronroos, Turku, FINLAND;
Kaija Halonen, Rusko, FINLAND;
Pirkko Harkonen, Turku, FINLAND;

Assignment For Published Patent Application

Hormos Medical Corporation

Power of Attorney: The patent practitioners associated with Customer Number 00757

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/FI01/00414 05/02/2001
which is a CON of 09/625,199 07/21/2000 PAT 6,245,819

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 07/10/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/162,708**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHODS FOR THE INHIBITION OF ATROPHY OR FOR TREATMENT OR PREVENTION OF ATROPHY-RELATED SYMPTOMS IN WOMEN

Preliminary Class

514

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).

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: AUTL-001/09US 308614-2003	
Application Number: 10/162,796	Filing Date (or 371(b) or (f) Date): June 5, 2002
Patent Number: 7,547,674	Issue Date: June 16, 2009
First Named Inventor: Piero Anversa	
Title: Methods and Compositions for the Repair and/or Regeneration of Damaged Myocardium	

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: Jayme A. Huleatt	Date: August 24, 2010
Name (Print/Typed): Jayme A. Huleatt	Registration Number: 34,485

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 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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

COOLEY LLP
ATTN: Patent Group
Suite 1100
777 - 6th Street, NW
WASHINGTON, DC 20001

Mail Date: 10/29/2010

Applicant	: Piero Anversa	: DECISION ON REQUEST FOR
Patent Number	: 7547674	: RECALCULATION of PATENT
Issue Date	: 06/16/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/162,796	: OF WYETH
Filed	: 06/05/2002	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES 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.

COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Patent No. 7,547,674 :
Piero Anversa : ON PETITIONS
Application No. 10/162,796 : under 37 CFR 1.183
Issue Date: 6/16/2009 : and
Filed: 06/05/2002 : ON REQUEST FOR RECONSIDERATION
Attorney Docket No. : OF PATENT TERM ADJUSTMENT
AUTL-001/09US 308614-2003 :

This is a decision on the 1) Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits an Application for Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the 2) Application for Patent Term Adjustment, both filed on August 24, 2010.

The petition is **DISMISSED**.

Your petition for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,547,674 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 requests for PTA recalculation 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 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.

Receipt of the fees required for the petition under 37 CFR 1.183 and the application for patent term adjustment is acknowledged.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

COOLEY LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON DC 20001

MAILED
FEB 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,547,674	: ON PETITION
Piero Anversa	: UNDER 37 CFR 1.183
Issue Date: 06/16/2009	: and
Application No. 10/162,796	: ON APPLICATION FOR
Filed: 06/05/2002	: PATENT TERM ADJUSTMENT
Attorney Docket No.	:
AUTL-001/09US 308614-2003	:

This is a decision on the "REPLY TO THE DECISIONS ON THE REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND THE DISMISSAL OF PETITIONS UNDER 37 C.F.R. § 1.183 AND THE REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed on November 29, 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 **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.

Your petition requesting suspension of the time limit for recalculation/reconsideration of the USPTO's PTA determination for U.S. Patent No. 7,547,674 is denied. 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 consider a patentee's initial request for PTA determination.

The present renewed petition under 37 CFR 1.183 is granted to the extent that the decision of November 15, 2010, has been reconsidered; however, the renewed petition requesting suspension of the time limit for consideration of an application for patent term adjustment under 37 CFR 1.183 is **DENIED**.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

AUG 3 1 2010

Paper No.

OFFICE OF PETITIONS

BAKER BOTTS LLP
2001 ROSS AVENUE
6TH FLOOR
DALLAS TX 75201-2980

In re Application of	:	
Peterson	:	
Application No. 10/162,950	:	
Patent No. 6,814,632	:	DECISION ON PETITION
Filed: June 4, 2002	:	UNDER 37 C.F.R. § 1.378(C)
Issue Date: November 9, 2004	:	
Attorney Docket Number: 01W054	:	
Title: ELECTRICAL CONNECTOR	:	
SYSTEM HAVING CONTACT BODY WITH	:	
INTEGRAL NONMETALLIC SLEEVE	:	

This is a decision on the petition filed pursuant to 37 C.F.R. § 1.378(c) on July 22, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This petition pursuant to 37 C.F.R. § 1.378(c) is **GRANTED**.

The patent issued on October 25, 2005. The grace period for paying the 3½-year maintenance fee provided in 37 C.F.R. § 1.362(e) expired at midnight on October 25, 2009, with no payment received. Accordingly, the patent expired on October 25, 2009 at midnight.

A grantable petition pursuant to 37 C.F.R. § 1.378(c) must be accompanied by:

(1) The maintenance fee as set forth in 37 C.F.R. §§ 1.362(e) and 1.20;
(2) The surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee, as set forth in 37 C.F.R. § 1.20;
(3) A statement that the delay was unintentional from

a proper party in interest, and;

(4) The petition must be filed within 24 months of the date of expiration.

With this petition, Petitioner submitted the surcharge associated with a petition to accept late payment of a maintenance fee as unintentional, the 3½-year maintenance fee, and a statement that the delay in payment of the maintenance fee was unintentional. This petition was timely filed within twenty-four months after the expiration of the six-month grace period.

Petitioner has met each of the requirements of Rule 1.378(c).

Accordingly, the maintenance fee in this case is hereby accepted and the above-identified patent is hereby reinstated as of the mail date of this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[1] Inquiries pertaining to the submission of maintenance fees should be directed to the Maintenance Fee branch at 571-272-6500.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, DC 20004-2128

MAILED

OCT 22 2010

OFFICE OF PETITIONS

In re Application of
Thanh Ta, et al.
Application No. 10/163,634
Filed: June 7, 2002
Attorney Docket No. 111325-230400

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 **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Nixon Peabody, LLP has been revoked by the assignee of the patent application on September 27, 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 undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : 03/14/2011

TO SPE OF : ART UNIT 2611

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:

All of the changes are acceptable EXCEPT:

Page 1 of the Request:

Column 8, Claim 4
Line 46, please replace "a predetermined" with --a predefined--.

Page 2 of the Request:

Column 10, Claim 22
Line 53, please replace "a predetermined" with --a predefined--.

Column 12, Claim 40
Line 55, please replace "a predetermined" with --a predefined--.

Page 3 of the Request:

Column 14, Claim 58
Line 59, please replace "a predetermined" with --a predefined--.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Comments:

Column 17, Claim 76
Line 4, please replace "a predetermined" with --a predefined--.

The above listed claim amendments change the scope of the claimed invention and are accordingly denied entry.

SPE : Shuwang Liu 2611

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TROXELL LAW OFFICE PLLC
5205 LEESBURG PIKE
SUITE 1404
FALLS CHURCH, VA 22041

MAILED

FEB 01 2011

OFFICE OF PETITIONS

In re Application of :
Lin :
Application No. 10/164,001 : ON PETITION
Filed: June 7, 2002 :
Attorney Docket No. BHT-3090-21 :
For: LINEAR SUSPENSION PROJECTOR LAMP ASSEMBLY

This is a decision on the petition, filed August 31, 2005, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to timely submit the issue fee and publication fee, as required by the Notice of Allowance and Fee(s) Due, mailed October 6, 2003, which set a non-extendable period for reply of three (3) months. Having received no reply, the Office considered the application abandoned on January 7, 2004. A Notice of Abandonment was mailed on February 23, 2004.

A review of the written record indicates an irregularity in the mailing of the Notice of Allowance and Fee(s) Due of October 6, 2003. In this regard, the Office received a proper Change of Correspondence Address on June 7, 2002. Unfortunately, the Office did not promptly enter the requested changes. This error resulted in the October 6, 2003 Notice of Allowance and Fee(s) Due (and Notice of Allowability) being transmitted to an incorrect address.

The petition under 37 CFR 1.181 is granted. The holding of abandonment is withdrawn. No petition fee has been or will be charged in connection with this matter.

A courtesy copy of this decision will be mailed to the inventor, as the attorney of record is no longer practicing law. Please file a power of attorney and change of correspondence address listing an operational address promptly.

In addition, applicant is informed that on July 11, 2002, the Office generated, but did not mail, a Notice of Informal Application that noted an acceptable declaration had not been filed. Please promptly submit a new oath/declaration that identifies the application number and lists the citizenship of the inventor.

After the mailing of this decision, the application will be returned to the Technology Center technical support staff of Art Unit 2885 for the re-mailing of the October 6, 2003 Notice of Allowance and Fee(s) Due and Notice of Allowability with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: MICHAEL LIN
8F, NO. 659
CHUNG CHENG RD.
HSINCHUANG, TAIPEI HSIEN
THE REPUBLIC OF CHINA

UNITED STATES 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. 7115370
Issue Date: October 3,2006
Application No. 10164103
Filed: June 5,2002
Attorney Docket No. AH-CGEN:002US

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 2,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 2,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7115370	2006-10-03	10164103	2002-06-05	

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity			Small Entity		
	Fee	Code		Fee	Code
○	3 ½ year	(1551)	◉	3 ½ year	(2551)
○	7 ½ year	(1552)	○	7 ½ year	(2552)
○	11 ½ year	(1553)	○	11 ½ year	(2553)

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

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	/gms/	Date (YYYY-MM-DD)	2010-12-02
Name	Gregory M. Stone	Registration Number	43165

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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

MAILED

AUG 3 0 2010

OFFICE OF PETITIONS

MANUEL FERNANDEZ
811 SE 11TH AVENUE
DEERFIELD BEACH FL 33441

In re Patent No. 6,935,359 :
Issue Date: August 30, 2005 :
Application No. 10/164,157 : ON PETITION
Filed: June 6, 2002 :
Attorney Docket No. 4819.001 :

This is a decision on the petition under 37 CFR 1.378(c), filed April 6, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 31, 2009 for failure to pay the 3.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

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 a 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 an 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.

Although a request for change of address was submitted on petition, the change of address cannot be entered as petitioner has not met the requirements of 37 CFR 3.73(b). A statement pursuant to 37 CFR 3.73 must be submitted before the change of address can be entered. 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) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Evangelina Fernandez
796 Camino Gardens Lane
Boca Raton, FL 33432

Enclosure 37 CFR 3.73(b)

PTO/SB/96 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Titled:

_____, a _____

(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.

states that it is:

1. ☐ the assignee of the entire right, title, and interest in;

2. ☐ an assignee of less than the entire right, title, and interest in (The extent (by percentage) of its ownership interest is _____ %); or

3. ☐ the assignee of an undivided interest in the entirety of (a complete assignment from one of the joint inventors was made)

the patent application/patent identified above, by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy therefore is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____

The document was recorded in the United States Patent and Trademark Office at

Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet(s).

☐ As required by 37 CFR 3.73(b)(1)(i), the documentary evidence of the chain of title from the original owner to the assignee was, or concurrently is being, submitted for recordation pursuant to 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____

Signature Date

_____ _____

Printed or Typed Name Title

This collection of information is required by 37 CFR 3.73(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

MAILED

JUL 15 2011

OFFICE OF PETITIONS

In re Patent No. 7,214,771 :
Issue Date: May 8, 2007 :
Application No. 10/164,359 : ON PETITION
Filed: June 6, 2002 :
Attorney Docket No. 601-1-1-8US :

This is a decision on the renewed petition under 37 CFR 1.378(c), filed June 9, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on May 8, 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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Since the $810 petition fee submitted on June 9, 2011, is unnecessary, this fee will be credited to petitioner's Deposit Account No. 50-1619.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The patent file is being forwarded to Files Repository.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: JANE MASSEY LICATA
LICATA & TYRRELL P.C.
66 E. MAIN STREET,
MARLTON, NJ 08053

UNITED STATES 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 :
Larry A. Lopez et al. :
Application No. 10/164,512 : NOTICE
Patent No. 7,086,864 :
Filed: June 06, 2002 :
Attorney Docket No. **96390**

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
www.uspto.gov

Mr. Lou HSU
Unicorn Import & Mfg. Corp.
P.O. Box 461119
Garland TX 75050

MAILED

OCT 2 2 2010

OFFICE OF PETITIONS

In re Patent No. 7,066,337 :
Issue Date: June 27, 2006 :
Application No. 10/164,773 : ON PETITION
Filed: June 5, 2002 :
Attorney Docket No. **HSU-181R** :

This is a decision on the petition under 37 CFR 1.378(c), filed August 10, 2010, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired at midnight June 27, 2010, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Any petition for reconsideration of this decision must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) above.

As to item (3)

Petitioner has submitted fees totaling $1,045 with the above-noted petition. The 3 ½ year fee is $490 while the surcharge is $1,640 totaling the amount of $2,130. However, petitioner failed to submit the correct amount of $1,640 for the payment of the surcharge set for in 37 CFR 1.20(i)(2). Accordingly, the Office has applied $490 towards the 3 ½ year payment of the maintenance fee and $555 towards the payment of the petition surcharge fee. Therefore, petitioner must submit the remaining balance of $1,085 for the petition surcharge fee and an additional $400 for the petition for reconsideration before this patent can be reinstated.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Mr. Lou HSU
Unicorn Import & Mfg. Corp.
P.O. Box 461119
Garland TX 75050

MAILED

JAN 03 2011

OFFICE OF PETITIONS

In re Patent No. 7,066,337 :
Issue Date: June 27, 2006 :
Application No. 10/164,773 : ON PETITION
Filed: June 5, 2002 :
Attorney Docket No. **HSU-181R** :

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.

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Grady K. Bergen appearing on the petition shall constitute a representation to the United States Patent and trademark Office that petitioner is authorized to represent the particular party on whose behalf he acts. If, Grady K. Bergen desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. However, a courtesy copy of this decision is being mailed to the address given on the petition

This patent expired at midnight June 27, 2010, for failure to pay the 3½ year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

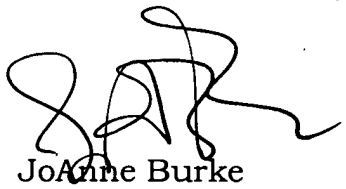
The petition is **GRANTED**.

A petition to accept the unintentionally delayed payment of a maintenance fee under 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, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.



JoAnne Burke
Petitions Examiner
Office of Petitions

cc: GRADY K. BERGEN
3333 LEE PARKWAY
SUITE 600
DALLAS, TX 75219

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)
6902370	2005-06-07	10164959	2002-06-04	007185.00055

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Chunhsi Andy Mu/	Date (YYYY-MM-DD)	2011-05-11
Name	Chunhsi Andy Mu	Registration Number	58216

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 6902370
Issue Date: June 7,2005
Application No. 10164959
Filed: June 4,2002
Attorney Docket No. 007185.00055

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed May 11,2011 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of May 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

Arnold & Porter LLP (24126)
Attn: SV Docketing Dept.
1801 Page Mill Road
Suite 110
Palo Alto CA 94304

MAILED

SEP 07 2011

OFFICE OF PETITIONS

In re Application of :
Hubert, et al. :
Application No. 10/165,044 : DECISION ON PETITION
Filed: June 6, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 39766-0163 R1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed August 22, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the 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 reference to add the 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 or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

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

Arnold & Porter LLP (24126)
Attn: SV Docketing Dept.
1801 Page Mill Road
Suite 110
Palo Alto CA 94304

MAILED
NOV 03 2011
OFFICE OF PETITIONS

In re Application of :
Hubert, et al. :
Application No. 10/165,044 : DECISION ON PETITION
Filed: June 6, 2002 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 39766-0163 R1 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 19, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the 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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1642 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.

Shirene Willis Brantley

Shirene Willis 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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/165,044	06/06/2002	1642	1139	39766-0163 R1	58	7

CONFIRMATION NO. 8897

CORRECTED FILING RECEIPT

35489
Arnold & Porter LLP (24126)
Attn: SV Docketing Dept.
1801 Page Mill Road
Suite 110
Palo Alto, CA 94304

Date Mailed: 10/31/2011

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)

Rene S. Hubert, Los Angeles, CA;
Arthur B. Raitano, Los Angeles, CA;
Douglas Saffran, Encinitas, CA;
Daniel E. H. Afar, Brisbane, CA;
Steven Chappell Mitchell, Gurnee, IL;
Mary Faris, Los Angeles, CA;
Aya Jakobovits, Beverly Hills, CA;

Power of Attorney: The patent practitioners associated with Customer Number 35489

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/296,656 06/06/2001
and is a CIP of 09/455,486 12/06/1999 PAT 6,833,438
which is a CIP of 09/323,873 06/01/1999 PAT 6,329,503

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see http://www.uspto.gov for more information.)

If Required, Foreign Filing License Granted: 07/05/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/165,044**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Serpentine transmembrane antigens expressed in human cancers and uses thereof

Preliminary Class

424

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

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.
10/165,573	06/07/2002	Aravind Sitaraman	Cisco.6157	3263

86421 7590 08/19/2010

Patent Capital Group - Cisco
6119 McCommas
Dallas, TX 75214

EXAMINER	
SALAD, ABDULLAHI ELMI	
ART UNIT	PAPER NUMBER
2157	

NOTIFICATION DATE	DELIVERY MODE
08/19/2010	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):

thomasframe@patcapgroup.com
patbradford@patcapgroup.com
peggsu@cisco.com

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100812

DATE : August 16, 2010

TO SPE OF : ART UNIT 2457

SUBJECT : Request for Certificate of Correction on Patent No.: 7,246,154 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
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: /Ario Etienne/ **Art Unit** 2457

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Michael Marion
Philips Electronics North America Corp.
P.O. Box 3001
Briarcliff Manor, NY 10510

MAILED

SEP 30 2010

OFFICE OF PETITIONS

In re Patent of Raymond J. Menard :
Patent No. 7,088,233 :
Issue Date: August 8, 2006 : Letter
Application No. 10/165,624 :
Filing Date: January 20, 2000 :
Attorney Docket No. 013913US2 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 C.F.R. § 1.28(c) filed April 14, 2010.

The deficiency payment of $490 is hereby accepted and the change of status to large entity has been entered and made of record.

The instant request does not include a correspondence address. As a courtesy, the undersigned conducted a review of Office records and determined the Office's address for Attorney Michael Marrion, who signed the petition, is as follows:

Philips Electronics North America Corp..
P.O. Box 3001,
Briarcliff Manor, NY 10510

The address set forth above is different than the address of record. If appropriate, a request to change the address of record should be filed. The instant letter is being mailed to the address set forth above. However, the Office will mail all future correspondence solely to the current address of record absent the filing of a proper request to change the address 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

In re Patent No. 7111765
Issue Date: September 26,2006
Application No. 10165859
Filed: June 7,2002
Attorney Docket No. 109871-129803

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 13,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 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 13,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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)
7,111,765	2006-09-26	10/165,859	2002-06-07	003

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Blayne D. Green/	Date (YYYY-MM-DD)	2010-10-13
Name	Blayne D. Green	Registration Number	56198

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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

NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Application of	:	
Robert E. Simonson	:	
Application No. 10/165,991	:	DECISION GRANTING PETITION
Filed: June 10, 2002	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 101896-278	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 21, 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 on November 19, 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3763 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

Best Available Copy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

CAREY, RODRIGUEZ, GREENBERG & O"KEEFE, LLP
STEVEN M. GREENBERG
950 PENINSULA CORPORATE CIRCLE
SUITE 2022
BOCA RATON FL 33487

MAILED

DEC 12 2011

OFFICE OF PETITIONS

In re Application of :
Colasurdo et al. :
Application No. 10/166,299 : DECISION ON PETITION
Filed: June 10, 2002 :
Attorney Docket No. RSW920020025US1 :
(040)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 1, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of June 30, 2011 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 31, 2011. *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 $930.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1860.00; and (3) a proper statement of unintentional delay.

This application is being referred to Technology Center AU 2442 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : May 10, 2011

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 10166355 Patent No.: 7713932

CofC mailroom date: May 12, 2010

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

_____
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: _____

_____

_____

_____

_____

Cecile Tsay SPE Art Unit 1654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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

MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND OR 97204

MAILED

NOV 01 2010

OFFICE OF PETITIONS

In re Application of :
Jeff Scott Eder :
Application No. 10/166,758 :
Filed: June 12, 2002 :
Attorney Docket No. **1653-0002** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed October 7, 2010.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71.* 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-2991.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ASSET TRUST, INC.**
2020 Maltby Road, Suite 7362
Bothell, WA 98021

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

NOV 12 2010

OFFICE OF PETITIONS

MARGER JOHNSON & McCollom, P.C.
210 SW Morrison Street, Suite 400
Portland, OR 97204

In re Application of	:	
Jeff Scott Eder	:	**CORRECTED**
Application No. 10/166,758	:	DECISION ON PETITION
Filed: June 12, 2002	:	TO WITHDRAW
Attorney Docket No. 1653-0002	:	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 October 7, 2010.

The decision mailed on November 1, 2010 is hereby **VACATED.**

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 David A. Crowther 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.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ASSET TRUST, INC.**
2020 Maltby Road
Suite 7362
Bothell, WA 98021

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
10/166,758	06/12/2002	Jeff Scott Eder	1653-0002

CONFIRMATION NO. 5035

POWER OF ATTORNEY NOTICE

20575
MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

Date Mailed: 11/10/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/07/2010.

- 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

UNITED STATES 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 16 2010

OFFICE OF PETITIONS

In re Patent No. 7,527,790	:	
Yamaguchi et al.	:	DECISION ON
Issue Date: 05/05/2009	:	APPLICATION FOR
Application No. 10/167182	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/11/2002	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
APMOL.004DV1	:	CERTIFICAE OF CORRECTION

This is a decision on the petition filed on May 20, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand three hundred sixty-two (1362) 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 sixty-two (1362) days is **GRANTED to the extent indicated herein**.

A review of Office records reveals that the Office errantly assessed a reduction of 120 days in accordance with 37 CFR 1.704(c)(10) in connection with the filing of an Amendment After Notice of Allowance" on October 27, 2008. Office records confirm that Applicants did not file an Amendment After Notice of Allowance" on October 27, 2008. As such, the delay of 120 days is in error and has been removed.

A review of Office records also reveals that the Office also errantly neglected to assess a reduction in accordance with 37 CFR 1.704(c)(8), in connection with the filing of a Information Disclosure Statement ("IDS"), January 9, 2008, after filing the RCE on October 31, 2007. Pursuant to 37 CFR 1.704(c)(8), the patent term is reduced by a period of 70 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 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 ninety-two (1292) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,527,790 B2

DATED : **May 5, 2009**

INVENTOR(S) : Yamaguchi 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 1242 days.

Delete the phrase "by 1242 days" and insert – by 1292 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)
7062913	2006-06-20	10168169	2002-06-15	OSU 204

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Jason H. Foster/	Date (YYYY-MM-DD)	2010-08-27
Name	Jason H. Foster	Registration Number	39981

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7062913
Issue Date: June 20,2006
Application No. 10168169
Filed: June 15,2002
Attorney Docket No. D473.12PCT-US

:
: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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAHIVE & COCKFIELD, LLP
FLOOR 30, SUITE 3000
ONE POST OFFICE SQUARE
BOSTON MA 02109

MAILED

NOV 04 2010

OFFICE OF PETITIONS

In re Application of :
Ambruster et al. :
Application No. 10/168185 :
Filing or 371(c) Date: 03/21/2003 :
Attorney Docket Number: :
HLZ-004USRCE :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT INCLUDING REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. § 1.705(b)," filed June 15, 2010. Applicants petition for reconsideration of the patent term adjustment calculation to a minimum of 999 days, not 180 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 119 days, and (2) on the basis that the Office will take in excess of three years to issue this patent. Applicant also avers that the submission a copy of a diskette that was filed on April 23, 2007 is not a reduction pursuant to 37 CFR 1.704(c)(10).

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 a delay of 119 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, and as it relates to whether the submission a copy of a diskette that was filed on April 23, 2007 is not a reduction pursuant to 37 CFR 1.704(c)(10), is **DISMISSED as PREMATURE**.

As to the assertion that the Office erred in failing to calculate a delay of 119 days, the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed April 2, 2010 indicates a patent term of 180 days. The instant request for reconsideration of patent term adjustment indicates that the Office may have erred in failing to calculate an adjustment 119 days in

connection with the filing of a response to a Notification of Missing Requirements, filed three (3) months and 119 days after the mailing of the Notification of Missing Requirements.

A Notification of Missing Requirements Under 35 U.S.C. 371 was mailed on August 22, 2002. Applicants filed a response to the Notification of Missing Requirements on March 21, 2003. The reduction commenced November 23, 2002, the day after the date that is three months after the date of mailing of the Notification of Missing Requirements, and ending on the date the reply was filed, March 21, 2003. As such, pursuant to 37 CFR 1.704(b), the application is properly assessed a reduction of 119 days.

In view thereof, as of the time of allowance, the application is entitled to an overall patent term adjustment of 61 days (adjustments totaling 615 days less reductions totaling 554 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[1].

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, 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.

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*: 10168185 Search | Explanation of PTA Calculation | Explanation of PTE Calculation

PTA Calculations for Application: 10168185

Application Filing Date	03/21/2003	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	615
A Delays	615	PTO Manual Adjustment	-119
B Delays	0	Applicant Delay (APPL)	435
C Delays	0	Total PTA (days)	61

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
107	11/04/2010		P028	Adjustment of PTA Calculation by PTO		119	0
85	04/02/2010		MN/=.	Mail Notice of Allowance			0
84	03/30/2010		IREV.	Issue Revision Completed			0
83	03/30/2010		DVER	Document Verification			0
82	03/30/2010		N/=.	Notice of Allowance Data Verification Completed			0
81	03/30/2010		DOCK	Case Docketed to Examiner in GAU			0
80	03/22/2010		CNTA	Notice of Allowability			0
79	03/09/2010		FWDX	Date Forwarded to Examiner			0
77	03/09/2010		FWDX	Date Forwarded to Examiner			0
74	03/04/2010		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
78	02/25/2010	02/11/2010	SA..	Supplemental Response		14	76
73	02/22/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
76	02/11/2010	11/11/2009	A...	Response after Non-Final Action		92	72
75	02/11/2010		XT/G	Request for Extension of Time - Granted			0
72	08/11/2009		MCTNF	Mail Non-Final Rejection			0
71	08/03/2009		CTNF	Non-Final Rejection			0
67	05/06/2009		FWDX	Date Forwarded to Examiner			0
70	04/13/2009		IDSC	Information Disclosure Statement considered			0
69	04/13/2009		RCAP	Reference capture on IDS			0
68	04/13/2009	04/13/2009	M844	Information Disclosure Statement (IDS) Filed			66
66	04/13/2009	02/17/2009	A...	Response after Non-Final Action		55	59
65	04/13/2009		XT/G	Request for Extension of Time - Granted			0
64	04/13/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
63	03/09/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
62	03/05/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
60	11/17/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
59	11/17/2008		MCTNF	Mail Non-Final Rejection			0
57	11/17/2008		CTNF	Non-Final Rejection			0
58	11/14/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
56	09/10/2008		FWDX	Date Forwarded to Examiner			0
54	09/10/2008		FWDX	Date Forwarded to Examiner			0
52	09/10/2008		ABN9	Disposal for a RCE / CPA / R129			0
55	08/22/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
51	08/22/2008		XT/G	Request for Extension of Time - Granted			0
50	08/22/2008		BRCE	Workflow - Request for RCE - Begin			0
49	04/01/2008		MCTAV	Mail Advisory Action (PTOL - 303)			0
48	03/31/2008		CTAV	Advisory Action (PTOL-303)			0
47	02/21/2008		FWDX	Date Forwarded to Examiner			0
46	01/25/2008		AP/A	Amendment/Argument after Notice of Appeal			0
45	01/25/2008	10/25/2007	N/AP	Notice of Appeal Filed		92	42
44	01/25/2008		XT/G	Request for Extension of Time - Granted			0
43	09/05/2007		C.ADB	Correspondence Address Change			0
42	07/25/2007		MCTFR	Mail Final Rejection (PTOL - 326)			0
41	07/19/2007		CTFR	Final Rejection			0
39	05/15/2007		FWDX	Date Forwarded to Examiner			0
40	04/23/2007		C605	Certified Translation of Specification Filed			0
38	04/23/2007	01/23/2007	A...	Response after Non-Final Action		90	33
37	04/23/2007		XT/G	Request for Extension of Time - Granted			0
35	02/27/2007		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
34	02/13/2007		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
33	10/23/2006		MCTNF	Mail Non-Final Rejection			0
32	10/16/2006		CTNF	Non-Final Rejection			0
29	08/11/2006		FWDX	Date Forwarded to Examiner			0
30	07/31/2006		PFP	petition fee paid			0
28	07/27/2006	04/26/2006	ELC.	Response to Election / Restriction Filed		92	26
27	07/27/2006		XT/G	Request for Extension of Time - Granted			0
26	01/26/2006	05/21/2004	MCTRS	Mail Restriction Requirement	615		-1
25	01/23/2006		CTRS	Requirement for Restriction / Election			0
24	07/05/2005		LET.	Miscellaneous Incoming Letter			0
23	12/19/2003		C.ADB	Correspondence Address Change			0
22	12/11/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
21	12/08/2003		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
18	06/23/2003		DOCK	Case Docketed to Examiner in GAU			0
17	05/22/2003		OIPE	Application Dispatched from OIPE			0
16	05/17/2003		SCAN	IFW Scan & PACR Auto Security Review			0
15	05/12/2003		M903	Notice of DO/EO Acceptance Mailed			0
4	05/08/2003		C.AD	Correspondence Address Change			0
3	05/07/2003		CRFE	CRF Is Good Technically / Entered into Database			0
31	03/27/2003		IDSC	Information Disclosure Statement considered			0
20.7	03/27/2003		M844	Information Disclosure Statement (IDS) Filed			0
20	03/27/2003		WIDS	Information Disclosure Statement (IDS) Filed			0
11	03/27/2003		INFODSCL	Information Disclosure Statements			0
14	03/21/2003		ADDFLFEE	Additional Application Filing Fees			0
13	03/21/2003		CPYANNEX	Copy of Annexes to the International Preliminary Examination Report			0
12	03/21/2003		ADDFLFEE	Additional Application Filing Fees			0
10	03/21/2003		PREAMND	Preliminary Amendments			0
9	03/21/2003		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
8	03/21/2003		CRFL	CRF Disk Has Been Received by Preexam / Group / PCT			0
7	03/21/2003		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
6	03/21/2003		TRNIA	Translation of the international application into English			0
5	03/21/2003		TRNIA	Translation of the international application into English			0

Export to: Excel

on Explorer on Explorer on Explorer on Explorer on Explorer on Explorer on Explorer on Explorer Documentation Explorer

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Norman B. Thot
PO Box 10 17 56
Ratingen 40837
GERMANY

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Patent of Mende et al. :
Patent No. 6,887,296 :
Issue Date: May 3, 2005 : Decision on Petition
Application No. 10/168,272 :
371(c) Date: June 18, 2002 :
Attorney Docket No. STA 163-US-PAT :

This is a decision on the petition under 37 C.F.R. § 1.378(b) filed July 8, 2011, which requests reinstatement of the patent. This is also a decision on the petition under 37 C.F.R. § 1.182 filed July 8, 2011, which requests expedited consideration of the petition under 37 C.F.R. § 1.378(b).

The petition under 37 C.F.R. § 1.378(b) is **dismissed**.

The petition under 37 C.F.R. § 1.182 is **granted**.

Facts

The patent is owned by H.C. Starck GmbH ("Starck").

The patent issued May 3, 2005.

At the time the patent issued, Starck was a member of the Bayer Group of companies ("Bayer Group").

The central administration of patents and patent applications within the Bayer Group was handled by Bayer Business Services GmbH ("BBS").

After the patent issued, BBS entered data for the instant patent into the renewal database of Computer Patent Annuities Limited ("CPA").

Christine Priesterjahn is a Patent Administrator at Starck. Priesterjahn states, "The patent number was incorrectly inputted as 'US 6,887,293' instead of 'US 6,887,296.'"[1]

The petition does not identify the specific individual who incorrectly entered the data.

Starck does not own Patent No. 6,887,293.

Starck left the Bayer Group during early 2007. However, Starck continued to use CPA to pay maintenance fees for its patents.

CPA sent a reminder note to Starck on June 22, 2008. The reminder listed Patent No. 6,887,293 under reference code "STA 163 US," which is the reference code for the instant patent.[2]

Starck sent instructions to CPA to pay the fee on September 30, 2008.

The 3.5 year maintenance fee could have been paid for the instant patent from May 3, 2008, to November 3, 2008, or with a surcharge from November 4, 2008, to Monday, May 4, 2009. The fee was not timely paid. Accordingly, the patent expired on May 4, 2009.

Priesterjahn undertook a review of Starck's patent data with CPA during May-June 2011. Preisterjahn states,

> Said review entailed me sending various data files containing data for issued [Starck] patents to CPA so that CPA could determine whether this data was correctly reflected in their renewal data base. This review resulted in CPA ... discovering a disparity relating to the [instant] patent.[3]

CPA sent an e-mail to Priesterjahn on June 6, 2011. The e-mail brought the disparity between the patent number and Stark's reference code for the patent to Starck's attention. An attachment to the email informed Starck of disparities involving data pertaining to other patents.

The instant petition under 37 C.F.R. § 1.378(b) and the instant petition under 37 C.F.R. § 1.182, were filed July 8, 2011.

Law

A grantable petition under 37 C.F.R. § 1.378(b) must be accompanied by a showing to the satisfaction of the Director that the entire delay in paying the required maintenance fee from the

---

[1] Preisterjahn Declaration, ¶ 6 (emphasis in original).

[2] The papers filed July 8, 2011, include several versions of the reference code for the instant patent. For example, Exhibit 2 includes the reference STA 163-US-PCT and the petition lists a docket number of STA 163-US-PAT. The Office is assuming any reference code in the papers filed July 8, 2011, which refers to both "STA 163" and the United States, applies to the instant patent.

[3] Preisterjahn Declaration at ¶12.

due date for the fee until the filing of a grantable petition pursuant to this paragraph was unavoidable.

In order for a party to show unavoidable delay, the party must show "reasonable care was taken to ensure that the maintenance fee would be promptly paid."[4] The level of "reasonable care" required to be shown is the same as the level of "care or diligence ... generally used and observed by prudent and careful men in relation to their most important business."[5] When determining if a period of delay has been shown to have been unavoidable, the Office will take "all the facts and circumstances into account" and will decide each petition "on a case-by-case basis."[6]

35 U.S.C. § 41(c)(1) states, with emphasis added, "The Director may accept the payment of any maintenance fee . . . after the six month grace period if the delay is *shown to the satisfaction of the Director* to have been unavoidable." Therefore, petitioner has the burden of proof. The decision will be based solely on the written, administrative record in existence. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable.

Analysis

Starck relied on BBS to properly enter data into a database in order to ensure maintenance fees would be timely paid for the instant patent. As a result of a data entry error by BBS, the 3.5 year maintenance fee was not timely paid.

When the owner of a patent relies on a third-party to take certain steps or actions to ensure maintenance fees are timely paid for a patent, the owner will be "'bound by any errors that may have been committed by' that third party."[7] In other words, in order to establish unavoidable delay, the owner must demonstrate the third party's failure to take the steps or actions was unavoidable.[8]

Starck relied on the past actions of BBS and the maintenance fee was not timely paid as a result of BBS failing to properly enter the patent into a database. Therefore, in order to establish unavoidable delay, the petition must establish BBS' failure to properly enter the patent into the database was unavoidable.

---

[4] 37 C.F.R. § 1.378(b).

[5] *In re Mattulath*, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912). *See also Ray v. Lehman*, 55 F.3d 606, 34 U.S.P.Q.2d (BNA) 1786 (Fed. Cir. 1995) (citations omitted) ("[I]n determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person.")

[6] *Smith v. Mossinghoff*, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (D.C. Cir. 1982).

[7] *Burandt v. Dudas*, 496 F. Supp. 2d 643, 652 (E.D. Va. 2007) (*quoting California Med. Prods., Inc., Tecnol Ved. Prods., Inc.*, 921 F. Supp. 1219, 1259 (D. Del. 1995) and *citing Haines v. Quigg*, 673 F. Supp. 314, 317 (N.D. Ind. 1987)), *aff'd*, 528 F. 3d 1329 (Fed. Cir. 2008)).

[8] *See Burandt*, 496 F. Supp. 2d at 652.

The record demonstrates a clerical error by an employee was the cause of the delay at issue. The Office has recognized delay resulting for a clerical error by an employee can support a finding of unavoidable delay if certain criteria are satisfied. MPEP § 711.03(c)(III)(C)(2) states,

> A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:
>
> (A) the error was the cause of the delay at issue;
> (B) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; and
> (C) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

As to requirement (B) in the quoted language set forth above, the record does not demonstrate a business routine existed that could be reasonably relied upon to avoid the type of error at issue. Specifically, the petition fails to:

1. Discuss the exact routine BBS used during 2005 when entering data into the relevant database,
2. Discuss the safeguards in place at BBS during 2005 to ensure data would be correctly entered into the database, and
3. Discuss the effectiveness of any safeguards in place.

If a request for reconsideration of this decision is filed, the request should include a discussion of the errors and/or discrepancies discovered by Starck when comparing Starck's records with CPA's records as part of the discussion of the effectiveness of any safeguards in place at BBS.

As to requirement (C) in the quoted language set forth above, the record fails to demonstrate BBS' reliance on the employee to correctly enter data was consistent with the level of care and diligence generally used by reasonable and prudent individuals when handling their most important business. Specifically, the petition fails to:

1. To identify the employee,
2. Discuss the training the employee had received prior to making the error,
3. Discuss the employee's experience as of the date the employee made the error,
4. Discuss the degree of supervision of the employee's work, and
5. Discuss the extent to which BBS audited the employee's work, or took similar steps, to ensure the employee was properly performing the employee's job functions.

Christine Priesterjahn states, "All of the information inputted by BBS for the '296 Patent is correct except the patent number itself."[9] However, a review of Exhibit 2 filed with the petition

[9] Preisterjahn Declaration at ¶ 6 (emphasis in original).

indicates the employee incorrectly entered the patent number ***and*** incorrectly entered the application number.

In view of the prior discussion, the record is insufficient to demonstrate the entire delay in the submission of the 3.5 year maintenance fee was unavoidable.

The address given on the petition is different than the address of record and the record does not indicate Norman B. Thot, the individual who signed the petition, is an attorney or agent or records. Although the instant decision is being mailed to Thot at the address on the petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Petitioner's Current Options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision and include a non-refundable petition fee of $400. Extensions of time under 37 C.F.R. § 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.378(b)."

After a decision on the petition for reconsideration is issued, no further reconsideration or review of the matter will be undertaken by the Director. Therefore, it is extremely important that petitioner supply **any** and **all** relevant information and documentation with his request for reconsideration. The Commissioner's decision will be based solely on the administrative record in existence. Petitioner should remember that it is not enough that the delay was unavoidable; petitioner must prove that the delay was unavoidable. A petition will not be granted if petitioner provides insufficient evidence to "show" that the delay was unavoidable. Therefore, if a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Since the petition is dismissed, petitioner may request a refund of the maintenance fee and surcharge. Petitioner is reminded that if a request for reconsideration is later filed along with the $400 fee, the $400 will not be refunded. A request for a refund should be sent to: Mail Stop 16, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany any request for refund.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[10] Document Code "PET.OP" should be used if the request is filed electronically.

[10] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

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

PATENT LAW OFFICES OF DR. NORMAN B. THOT
POSTFACH 10 17 56
RATINGEN 40837 DE GERMANY

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of :
Bernd Mende et al :
Application No. 10/168,272 : DECISION ON REQUEST FOR REFUND
Filed: June 18, 2002 :
Attorney Docket No. MO-7243/STA-163 :

This is a decision on the Request For Refund filed August 4, 2011.

The request is **GRANTED**.

The Office dismissed the petition filed under 37 CFR 1.378(b) mailed on July 19, 2011. In the decision, it stated that "since the petition is dismissed, Petitioner may request a refund of the 3 ½ year maintenance fee of $980.00 and the surcharge of $700.00 pursuant to 37 CFR 1.20(i)(1) paid to the Office by the Petitioner."

Petitioner has decided not to file a request for reconsideration and hereby requests a refund of the above fees. Therefore, a total of $1,680.00 is being credited to petitioner's deposit account no. 50-5256 as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FOX ROTHSCHILD LLP
997 Lenox Drive, Bldg. #3
Lawrenceville NJ 08648

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of :
Joaquim Bigorra et al. :
Application No. 10/168,286 : DECISION ON PETITION
Filed: October 22, 2002 :
Attorney Docket No. C 2127 PCT/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 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, October 1, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 2, 2009. A Notice of Abandonment was mailed on February 26, 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 (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

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 1611 for appropriate action by the Examiner in the normal course of business on the reply received October 7, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Robert N. Henrie, II
2000 Market Street
Philadelphia, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED
DEC 02 2010
OFFICE OF PETITIONS

In re Patent No. 6,994,984 :
Issued: 02/07/2006 :
Application No. 10/168,473 : NOTICE
Filed: 08/29/2002 :
Attorney Docket No. ARC-4662-1688 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 28, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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

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

OCT 22 2010

OFFICE OF PETITIONS

In re Patent No: 7,101,664 :
Issued: September 5, 2006 :
Application No. 10/168,690 : NOTICE
Filed: September 26, 2002 :
Attorney Docket No. 1939-0120P :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 2, 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 **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.

Accordingly, the request cannot be accepted until it is signed by all inventors, an attorney or agent registered to practice before the U.S. Patent and Trademark Office or the assignee of the entire interest under 37 CFR 3.73(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Additionally, petitioner has not included a return address in the request and therefore, the Office will mail this correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES 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 11 2011
OFFICE OF PETITIONS

In re Patent No. 7,101,664	:	
Issued: September 5, 2006	:	
Application No. 10/168,690	:	ON PETITION
Filed: September 26, 2002	:	
Attorney Docket No. 1939-0120P	:	

This is a notice regarding your renewed request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed March 1, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 05/10/11

Patent No. : 7840986 B2
Patent Issued : 11/23/10
Docket No. : **60097-0202**

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.

Respecting the alleged errors in the documents filed on 03/15/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/22/11

TO SPE OF : ART UNIT 2424

SUBJECT : Request for Certificate of Correction for Appl. No.: 10168808 Patent No.: **7840986**

CofC mailroom date: 03/15/11

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.

☐ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
xDenied	State the reasons for denial below.

Comments: Claiming US provisional priority under Foreign is improper. Provisionals should be considered US priority.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Chris Kelley/

Art unit 2424

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/10/11

TO SPE OF : ART UNIT 2424

SUBJECT : Request for Certificate of Correction for Appl. No.: 10168808 Patent No.: 7840986

CofC mailroom date: 6/01/11

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: Related U.S. Application Data

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: _____

/Pankaj Kumar 2424

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Joseph S. Tripoli
Patent Operations
Thomson Multimedia Licensing Inc.
CN 5312
Princeton, NJ 08543-0028

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of :
Nadine Patry, et. al. :
Application No. 10/168,930 : ON PETITION
Filed: September 23, 2002 :
Attorney Docket No. PF990094 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 30, 2010, to revive the above-identified application.

The application became abandoned for failure to file a reply to the non-final Office action mailed September 29, 2009.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Joel M. Fogelson appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Additionally, it is not apparent whether the 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 so notify the Office.

Since 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, the petition is **GRANTED**.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the $1,110 extension of time fee submitted on March 30, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Since the address given in the present petition differs from the correspondence address of record, a courtesy copy of this decision is being mailed to the address in the present petition. Thereafter, all future correspondence regarding this application will be mailed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 2421 for review of the amendment submitted with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Joel M. Fogelson
Two Independence Way, Suite 200
Princeton, NJ 08540

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM H. DIPPERT
ECKERT SEAMANS CHERIN & MELLOTT, LLC
U.S. STEEL TOWER
600 GRANT STREET, 44TH FLOOR
PITTSBURGH, PA 15219

MAILED
AUG 26 2010
OFFICE OF PETITIONS

In re Application of :
Moshe REFAEL :
Application No. 10/169,615 : DECISION GRANTING PETITION
Filed: January 9, 2003 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **GOL616.253325** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 25, 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 July 29, 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3737 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 20, 2012

TO SPE OF : ART UNIT 2887 SPE Steven Paik

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/169,631 Patent No.: 6,976,633 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 Building
2800 South Randolph Street
Arlington, VA 22206

Should the claims be amended as requested by applicant?
See COCIN dated 5-19-2011

Antonio Johnson

Certificates of Correction Branch
(571)272-0483 Fax – (571)270-9846

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.
- **X Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The request for CofC filed May 19, 2011 has been approved in part. The requested correction of col. 7, line 58, col. 8, line 59, col. 9, line 5, col. 13, line 15, col. 18, line 23, col. 20, line 4, and col. 23 line 66 have been approved. The requested corrections of claims do not appear to be identical to the amendment filed on 7/11/05. Therefore, the request is denied.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /Steven S. Paik/ Art Unit 2887

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

March 22, 2012

Patent No.: 6,976,633 B2
Applicant : Natsuki Kimura
Issued : December 20, 2005
For : **CARD-LIKE ELECTRONIC APPLIANCE HOLDER AND CARD-LIKE ELECTRONIC APPLIANCE SUPPORT APPARATUS**
Doc. No. : **SONYIT-229**

Re: Request for Reconsideration of Refusal to Enter Request for Certificate of Correction filed May 19, 2011

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322/1.323.

Respecting the alleged error in the claims section of printed patent. The requested corrections to the claims do not appear to be identical to the amendment filed on 7/11/2005. Therefore the proposed changes to the claims are disapproved. Further questions, concerns, and/or comments regarding amendments to claims it is advised to contact Karl Frech, Primary Examiner 571-272-2390 or Supervisory Patent Examiner, Steven Paik 571-272-2404 at the U.S. Patent and Trademark Office.

In view of the foregoing, your request in this matter is again denied. The set of corrections to the specification included on the 1050 form have already been issued January 12, 2010.

Further correspondence concerning this matter should be filed and directed to:

U.S. Department of Commerce
Patent & Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Certificate of Corrections Branch

For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

SONYJP
Lerner, David, Littenberg, Krumholz & Mentlik, LLP
600 South Ave West
Westfield NJ 07090

AJ

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 20, 2012

TO SPE OF : ART UNIT 2887 SPE Steven Paik.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/169,631 Patent No.: 6,976,633 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 Building
2800 South Randolph Street
Arlington, VA 22206

Should the claims be amended as requested by applicant?
See COCIN dated 5-19-2011

Antonio Johnson

Certificates of Correction Branch

(571)272-0483 Fax – (571)270-9846

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.
X **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: The request for CofC filed May 19, 2011 has been approved in part. The requested correction of col. 7, line 58, col. 8, line 59, col. 9, line 5, col. 13, line 15, col. 18, line 23, col. 20, line 4, and col. 23 line 66 have been approved. The requested corrections of claims do not appear to be identical to the amendment filed on 7/11/05. Therefore, the request is denied.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE /Steven S. Paik/ Art Unit 2887

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : September 8, 2010

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction on Patent No.: 10/169714 /pat. 6939421

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.

Magdalene Talley

Thank You For Your Assistance

Certificates of Correction Branch
571-272-0423

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☒ **Denied** — State the reasons for denial below.

Comments:

The request for reconsideration regarding the certificate of correction filed on 3/29/2010 is denied. The request for reconsideration was based on the argument that the requested corrections were not present in the substitute specification or examiner's amendment. This is correct, the denied requested corrections in the request for certificate of corrections filed on 9/6/2008 were not present in the substitute specification or examiner's amendment. The denied requested corrections are deemed to not satisfy the requirement that the corrections be: (1) of a clerical nature, (2) of a typographical nature, or (3) a mistake of minor character.

/Gladys JP Corcoran/
Supervisory Patent Examiner, Art Unit 1797

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE : September 8, 2010

TO SPE OF : ART UNIT 1733

SUBJECT : Request for Certificate of Correction on Patent No.: 10/169714 /pat. 6939421

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

Magdalene Talley
Certificates of Correction Branch
571-272-0423

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** — All changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☒ **Denied** — State the reasons for denial below.

Comments:

The request for reconsideration regarding the certificate of correction filed on 3/29/2010 is denied. The request for reconsideration was based on the argument that the requested corrections were not present in the substitute specification or examiner's amendment. This is correct, the denied requested corrections in the request for certificate of corrections filed on 9/6/2008 were not present in the substitute specification or examiner's amendment. The denied requested corrections are deemed to not satisfy the requirement that the corrections be: (1) of a clerical nature, (2) of a typographical nature, or (3) a mistake of minor character.

/Gladys JP Corcoran/
Supervisory Patent Examiner, Art Unit 1797

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

Date Mailed : October 12, 2010
Serial No. :10/169714
Patent No. :6,939,421
Patent Issued :September 6, 2005
Inventor(s) : Michel Bremont, et al.
Title : DEVICE FOR SETTING AND BONDING FASTENERS ONTO SUPPORT SURFACES

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 allege error noted in your request, the request for reconsideration regarding the certificate of correction filed on 3/29/2010 is denied. The request for reconsideration was based on the argument that the requested corrections were not present in the substitute specification or examiner's amendment. This is correct, the denied requested corrections in the request for certificate of corrections filed on 9/6/2008 were not present in the substitute specification or examiner's amendment. The denied requested corrections are deemed to not satisfy the requirement that the corrections be: (1) of a clerical nature, (2) of a typographical nature, or (3) a mistake of minor character.

In view of the foregoing your request is hereby denied.

Magdalene Talley
For Mary F. Diggs, Supervisor
Decisions and Certificate
Of Correction Branch
(571)272-0423
FAX 571-270-9942

Thomas E. Anderson
Gifford, Krass, Sprinkle, Anderson & Citi
P.O. Box 1022
Minneapolis, MN 55440-1022

MD/mt

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

MAILED
APR 08 2011
PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
TENNENBAUM et al	:	
Application No.: 10/169,801	:	
Paten No.: 7,402,571		
PCT No.: PCT/IL01/00675	:	PETITION UNDER
Int. Filing Date: 23 July 2001	:	
Priority Date: 31 July 2000	:	
Attorney's Docket No.: 02/23960	:	
For: METHOD AND... HEALING WOUNDS	:	37 CFR 1.78(a)(3)

This is in response to the communication "PETITION UNDER 37 CFR 1.78(a)(3)" submitted 09 July 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed patent application set forth in the certificate of correction filed with the petition.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is 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).

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 paragraph (a)(2) of this section 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)(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.

The petition has satisfied item (2) above, but not items (1) and (3).

Regarding item (1), a proper reference establishing the relationship to the prior-filed application has not been provided, and will need to be provided either as an amendment to the specification in the first sentence(s) following the title or in the application data sheet (ADS) as required by 37 CFR 1.78(a)(2). Note MPEP 201.11

Regarding item (2), the proper surcharge has been provided. Petitioner has submitted the petition fee of $1,410.00 under 37 CFR 1.17(t).

Regarding item (3), the proper statement has not been provided.

Any inquiries concerning this decision may directed to Rafael Bacares at (571) 272-3276.

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.

Rafael Bacares
Legal Examiner
PCT Legal Administrative Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Boris Milef
Legal Examiner
PCT Legal Administrative Office

UNITED STATES PATENT and TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FULBRIGHT & JAWORSKI, LLP
666 FIFTH AVE
NEW YORK NY 10103-3198

MAILED

JUL 11 2011

PCT LEGAL ADMINISTRATION

In re Application of	:	DECISION ON
TENNENBAUM et al	:	
Application No.: 10/169,801	:	RENEWED
Patent No.: 7,402,571	:	
PCT No.: PCT/IL01/00675	:	
Int. Filing Date: 23 July 2001	:	PETITION UNDER
Priority Date: 31 July 2000	:	
Attorney's Docket No.: 02/23960	:	
For: METHOD AND... HEALING WOUNDS	:	37 CFR 1.78(a)(3)

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.78(a)(3)" submitted 29 April 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed patent application set forth in the previously submitted request for Certificate of Correction.

The renewed petition is **DISMISSED.**

Petitioner asserts that the specific reference required under the statute and rules has been satisfied through the submission of the request for Certificate of Correction. This argument is not persuasive. 35 U.S.C. §120 states:

> *An **application** for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and **if it contains or is amended to contain a specific reference** to the earlier filed application. **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. (emphasis added)*

As indicated above, 35 U.S.C. §120 clearly requires that the *application* must contain the required reference. This requirement is likewise contained in the petition procedure set forth in 37 CFR 1.78(a)(3):

> *...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;...*

"Paragraph (a)(2)" of 37 CFR 1.78 states, in pertinent part:

> *(iii) 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.*** *(Emphasis added).*

Any inquiries concerning this decision may directed to Rafael Bacares at (571) 272-3276.

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.

/Boris Milef/

Rafael Bacares
Legal Examiner
PCT Legal Administrative Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

Boris Milef
Legal Examiner
PCT Legal Administrative Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

MAR 10 2011

OFFICE OF PETITIONS

Butzel Long
110 W. Michigan Avenue
Suite 1100
Lansing, MI 48933

In re Application of :
Jacques Degelaen, et. al. :
Application No. 10/170,343 : NOTICE
Filed: June 14, 2002 :
Attorney Docket No. Noegen 4.1-47 :

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on January 10, 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 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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 9/1/10 Paper No.: —

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/170542 Patent No.: 7671850 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: APPROVED

/Duc Dinh/ 09/21/10

UNITED STATES 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 LEZDEY
SUITE 302
4625 EAST BAY DR.
CLEARWATER FL 33764

MAILED

SEP 19 2011

OFFICE OF PETITIONS

In re Patent No. 6,535,373
Issue Date: March 18, 2003
Application No. 10/170,559
Filed: June 12, 2002
For: NON-AQUEOUS ELECTROLYTE

ON PETITION

This is a decision on the petition under 37 CFR 1.378(b), filed August 26, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within TWO (2) MONTHS from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of $400 as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Director will undertake no further reconsideration or review of the matter. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts, as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

The patent issued March 18, 2003. The 7.5 year (second) maintenance fee could have been paid from March 18, 2010 through September 17, 2010 or with a surcharge during the period from September 18, 2010 through March 18, 2011. Accordingly, the patent expired on March 19, 2011, for failure to timely submit the 7.5 year maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

A petition under 37 CFR 1.378(b) for the acceptance of an unavoidably delayed payment of maintenance fee is considered under the same standard as that for reviving an application unavoidably abandoned under 37 CFR 1.137(a) because 35 U.S.C. § 41(c)(1) uses the identical language, *i.e.*, "unavoidable" delay.[1] Decisions reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable.[2] In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."[3] Finally, a petition to revive an application as unavoidably abandoned cannot be granted where a petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay.[4]

The general standard applied by the Office requires petitioner to establish that petitioner treated the patent the same as a reasonable and prudent person would treat his or her most important business.[5] However, "the question of whether an applicant's delay in prosecuting an application was unavoidable [will] be decided on a case by case basis, taking all of the facts and circumstances into account".[6] Nonawareness of the content of, or misunderstanding of PTO statutes, PTO rules, the MPEP or Official Gazette notices, do not constitute unavoidable delay.[7] The statue requires a "showing" by petitioner. Therefore, petitioner has the burden of proof.

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. [8]

---

[1] Ray v. Lehman, 55 F.3d 606, 608-09, 34 USPQ2d 1786, 1787 (Fed. Cir. 1995)(quoting In re Patent No. 4,409,763, 7 USPQ2d 1798, 1800 (Comm'r Pat. 1988)).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" "is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful man in relation to their most important business"); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913).

[3] Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawareness of PTO rules does not constitute unavoidable delay)); Vincent v. Mossinghoff, 1985 U.S. Dist. Lexis 23119, 13 230 U.S.P.Q. (BNA) 621 (D.D.C. 1985) (Plaintiffs through their counsel's actions or their own must be held responsible for having noted the MPEP section and Official Gazette notices expressly stating that the certified mailing procedures outlined in 37 CFR 1.8(a) do not apply to continuation applications).

[4] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987).

[5] The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard 35 U.S.C. 41(c)(1) states, "The Commissioner may accept the payment of any maintenance fee...at any time...if the delay is shown to the *satisfaction of the Commissioner* to have been unavoidable (emphasis added).

[6] Smith v. Mossinghoff, 671 F.2d at 533.

[7] Id. at 538.

[8] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

PETITIONER'S ARGUMENT

- The law firm who handles the instant patent has all issued patents placed on the maintenance docket of CPi.
- After the law firm receives notice from CPi, the law firm maintains an internal docket to insure that the fee is timely paid. Attorney Lezdey states the patent maintenance docket has been maintained for all patents without incident for the last 15 years.
- In the instant patent, Attorney Lezdey states that no reminders were received from CPi. It was discovered the maintenance fee was not paid on August 8, 2011.
- Attorney Lezdey insists due care was taken to maintain the patent and all precautions were taken since CPi had a past record of good maintenance.

APPLICATION OF THE UNAVOIDABLE STANDARD

Petitioner's arguments have been considered but are not persuasive. In general a grantable petition under 37 CFR 1.378 (b) must show 1) petitioner knew of the need to make the maintenance fee payment, 2) implemented a reliable docketing system to track the relevant dates 3) treated the payment of the maintenance fee (and later the filing of a petition to reinstate) as his most important business 4) was prevented from making the payment and 5) must show the entire delay in making the payment and submitting a grantable petition was unavoidable.

In essence, petitioner must show that he was aware of the need to pay the maintenance fee, and to that end was tracking it, or had engaged someone to track it before the expiration, but when the fee came due, was "unavoidably" prevented from making the maintenance fee payment due. In determining whether a delay in paying a maintenance fee was unavoidable, one looks to whether the party responsible for payment of the maintenance fee exercised the due care of a reasonably prudent person. Ray, 55 F3d at 608-609, 34 USPQ2D at 1787. It is incumbent upon the patent owner to implement steps to schedule and pay the fee, or obligate another to do so. See California Medical Products v. Technol. Med. Prod., 921 F.Supp 1219, 1259 (D. Del. 1995). That is, 37 CFR 1.378(b)(3) requires a showing of the steps in place to pay the maintenance fee, and the record currently lacks a showing that any steps were emplaced by petitioner or anyone else. In the absence of a showing that petitioner or anyone else was engaged in tracking the maintenance fee due dates, and that party had in fact been tracking the due dates with a reliable tracking system, such as would be used by prudent and careful men in relation to their most important business, petitioner cannot reasonably show that the delay was unavoidable delay. In re Katrapat, 6 USPQ2d 1863, 1867-1868 (Comm'r Pat. 1988); California, supra.

Although petitioner states there was a docketing system in place, petitioner has failed to provide sufficient information and evidence about the docketing system utilized by CPi and the law firm. Petitioner has failed to demonstrate there was a clerical or docket error on behalf of CPi that led to the failure to receive the reminder notice, let alone that the error caused the delay in submitting

the maintenance fee. Nor has petitioner provided information regarding what may have caused the reminder not to be sent to the law firm. Further petitioner has failed to provide evidence that the instant patent was ever entered into the CPi or the law firm docketing systems. Docketing records to support petitioner's argument have not been provided.

In fact petitioner has provided a letter from CPi which seems to indicate the law firm was mailing correspondence to the incorrect address which may have resulted in correspondence being misplaced. Petitioner is reminded Attorney error whether it is from preoccupation with other legal matters or with the attorney's inadvertence or mistake is not sufficient to establish the delay was unavoidable. Mossinghoff, 671 F.2d at 536

Based on the lack of information and evidence provided on petition the Office is unable to make a finding that it was reasonable to rely on CPi, the law firm docketing system or any potential docketing employees. Thus, the Office cannot determine whether a reliable system was in place, whether petitioner treated the payment of the maintenance fee as his most important business and whether petitioner was prevented from making the maintenance fee payment.

Ultimately, the mere statement that the law firm failed to receive the reminder notice from CPi does not establish clerical or docket error, nor does it establishes unavoidable delay.

Accordingly, the facts presented do not allow for a finding of unavoidable delay.

When filing documentation in support of applications or petitions, please take steps to protect all personal information. "Personal information" includes social security, credit card and banking account numbers. This type of personal data is never required by the USPTO to support a petition or application. To protect your privacy, we suggest that you delete such information from any documentation you send the office.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Petitioner's current options

I. Petitioner may file a request for reconsideration.

Any request for reconsideration of this decision must be filed within **TWO MONTHS** of the mailing date of this decision. Any such petition for reconsideration must be accompanied by the $400 petition fee set forth in §1.17(h). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. Accordingly, on request for reconsideration, it is extremely important the petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unavoidable delay. This

includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. If a request for reconsideration is filed, it must establish that the entire delay in the submission of the maintenance fee was unavoidable.

II. Petitioner may request a refund of the maintenance fee and surcharge which accompanied the petition.

Petitioner may a request a refund of the maintenance fee and surcharge by writing to the Office of Finance, Commissioner for Patents, P.O. Box 1450,Alexandria, VA 22313. A copy of this decision should accompany petitioner's request.

III. Petitioner may wish to file a petition under 37 CFR 1.378(c).

Petitioner may wish to consider filing a petition to reinstate the patent based on unintentional expiration under 37 CFR 1.378(c). The surcharge of for the unintentional petition under 37 CFR 1.378 (c) is $1,640. If petitioner has previously submitted the surcharge for unavoidable delay. The unavoidable surcharge ($700) can be applied to the unintentional surcharge ($1640). In general, a petition under 37 CFR 1.378 (c) needs to state that expiration of the patent was

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.

Documents may also be submitted via the Electronic Filing System (EFS).

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: John Lezdey
2401 West Bay Drive, Suite 118
Largo, Florida 33770

UNITED STATES 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 LEZDEY
SUITE 302
4625 EAST BAY DR.
CLEARWATER FL 33764

MAILED
OCT 25 2011
OFFICE OF PETITIONS

In re Patent No. 6,535,373 :
Issue Date: March 18, 2003 :
Application No. 10/170,559 : ON PETITION
Filed: June 12, 2002 :
Attorney Docket No. 1111.10 :

This is a decision on the petition under 37 CFR 1.378(c), filed September 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 March 19, 2011 for failure to pay the 7.5 year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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 a 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 an 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 address on the petition differs from the correspondence address of record a courtesy copy of this decision is being provided. All future correspondence will be addressed to the correspondence address of record.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: John Lezdey
2401 West Bay Drive, Suite 118
Largo, Florida 33770

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

YOUNG & THOMPSON
209 MADISON STREET, SUITE 500
ALEXANDRIA, VA 22314

MAILED

MAR 04 2011

OFFICE OF PETITIONS

In re Application of :
Toshihiro IIZUKA, et *al.* :
Application No. 10/170,813 : DECISION ON PETITION
Filed: June 13, 2002 : UNDER 37 CFR 1.181
Attorney Docket No. **8022-1245** :

This is a decision on the petition, filed July 26, 2010, which is being treated as a petition under 37 CFR 1.181, 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 decision by the Board of Patent Appeals and Interference of July 15, 2010, which set a two (2) month shortened statutory period for reply. Accordingly, a reply was due on or before September 15, 2010.

Petitioner states that "on July 15, 2010, the Board of Patent Appeals and Interference issued its decision on rehearing, in which it maintained its decision of November 27, 2009 as to two of the grounds of rejection on appeal, and modified that decision to reverse the examiner as to the third ground of rejection on appeal. On July 20, 2010, that examiner issued a Notice of Abandonment, which indicated that the present application is abandoned in light of the November 27, 2009 decision of the Board of Appeals, "and because the period for seeking court review of the decision has expired and there are no allowed claims."

Petitioner also argues 37 CFR 1.304(a)(1), which provides that "if a request for rehearing or reconsideration of the decision is filed within the time period provided under §41.52(a), §41.79(a), or §41.127(d) of this title, the time for filing an

appeal or commencing a civil action shall expire two months after action on the request."

Accordingly, the Notice of Abandonment mailed July 20, 2010 is hereby vacated and the holding of abandonment withdrawn.

Telephone inquires regarding this decision should be directed to Monica A. Graves at (571) 272-7253.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

In re Patent No. 6927562
Issue Date: August 9,2005
Application No. 10171263
Filed: June 13,2002
Attorney Docket No. 0015-P02834US1

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed October 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 October 27,2010 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6927562	2005-08-09	10171263	2002-06-13	5056-P02834US01

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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	/Henry H. Skillman/	Date (YYYY-MM-DD)	2010-10-27
Name	HENRY H. SKILLMAN	Registration Number	17352

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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

Date Mailed : 10/20/11

Patent No. : 7394791 B2
Patent Issued : **July 1, 2008**
Docket No. : **TAN-2-1405.01.US**

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.

Respecting the alleged errors in the documents filed on 09/27/11; please see attachments. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/07/11

TO SPE OF : ART UNIT 2467

SUBJECT : Request for Certificate of Correction for Appl. No.: 10171378 Patent No.: 7394791

CofC mailroom date: 09/27/11

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: **Should the changes in the Related Applications Data be approved?**

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☐ **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☒ **Denied** — State the reasons for denial below.

Comments: The changes remove claims to priority that were made in the original oath filed 1/13/2003. This is considered to be new matter.

2467

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

Michael M. Steinmetz
Garson Segal Steinmetz Fladgate LLP
164 West 25th Street
Suite 11R
New York, NY 10001

MAILED

JAN 27 2012

OFFICE OF PETITIONS

In re Patent No. 6,659,488 :
Issue Date: December 9, 2003 :
Application No. 10/171,436 : ON PETITION
Filed: June 13, 2002 :
Attorney Docket No. **BB-1-GW** :

This is a decision on the petition under 37 CFR 1.378(b), filed June 17, 2011, to accept the unavoidably delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this 2-month time limit can be granted under 37 CFR 1.136(a) or (b). Any such petition for reconsideration must be accompanied by the petition fee of **$400** as set forth in 37 CFR 1.17(f). The petition for reconsideration should include an exhaustive attempt to provide the lacking item(s) noted below, since, after a decision on the petition for reconsideration, the Commissioner will undertake no further reconsideration or review of the matter.

The patent issued December 9, 2003. Accordingly, the 3½ year maintenance fee due could have been paid during the period from December 9, 2006 through June 12, 2007, or with a surcharge during the period from June 12, 2007 through December 9, 2007. This patent expired at midnight December 9, 2007, for failure to timely submit the 3½ year maintenance fee.

A petition to accept the delayed payment of a maintenance fee under 35 USC 41(c) and 37 CFR 1.378(b) must be accompanied by (1) an adequate, verified showing that the delay was unavoidable, since reasonable care was taken to insure that the maintenance fee would be paid timely, (2) payment of the appropriate maintenance fee, unless previously submitted, and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(1). This petition lacks item (1) above.

Petitioner asserts that: Mr. Borochov sout to pay the fee, however, the co-inventor "Bernardo Yuri Beresnitzky" refused to co-operate and as the ownership of the patent itself was at stake in the dispute with his co-inventor. Therefore, the co-inventor intentionally did not intend to have the maintenance fee paid in a timely manner.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.378(b)(3).

As 35 USC § 41(b) requires the payment of fees at specified intervals to maintain a patent in force, rather than some response to a specific action by the Office under 35 USC § 133, a reasonably prudent person in the exercise of due care and diligence would have taken steps to ensure the timely payment of such maintenance fees. Ray v. Lehman, 55 F.3d 606, 609, 34 USPQ2d 1786, 1788 (Fed. Cir. 1995). That is, an adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. § 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken by the responsible party to ensure the timely payment of the maintenance fee for this patent. Id.

I would also like to bring to petitioner attention that 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."

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

David Bucci
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.
10/171,437	06/12/2002	Andrew C. Gilbert	01-1043	9796

63710 7590 06/06/2011

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

EXAMINER	
MEINECKE DIAZ, SUSANNA M	
ART UNIT	PAPER NUMBER
3684	

NOTIFICATION DATE	DELIVERY MODE
06/06/2011	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, MARY ANN GILBERT, ANDREW STERGIOPOULOS, and ANGELA STERGIOPOULOS

Application 10/171,437
Technology Center 3600

DECISION ON PETITION

This is a decision on the "Petition Under 37 C.F.R. § 1.136(b) for Extension of Time to File Reply Brief and Request for Oral Hearing," filed May 31, 2011 ("Petition"). The Petition states that "Appellant petitions for a three-month extension of time to file a Reply Brief and a Request for Oral Hearing, to August 30, 2011".

FINDINGS

1) On September 7, 2010, Appellants filed a Notice of Appeal and a Pre-Brief Conference Request.

2) On September 17, 2010, a Pre-Brief Appeal Conference Decision was mailed to Appellants.

3) On March 17, 2011, Appellants filed an Appeal Brief, with a 5 month Extension of Time.

4) On March 31, 2011, an Examiner's Answer was mailed to Appellants.

5) On May 31, 2011, Appellants filed their Petition requesting an Extension of Time for 3 months.

6) In their Petition, Appellants request a 3 month extension of time for the following reasons:

> Due to a recent resignation and other factors, Appellant's patent legal staff is currently down two attorneys from our peak staffing of seven seniors. Also, Appellant's in-house counsel are providing support to outside counsel for several contentious matters, actively engaged in a *pro bono* matter, and providing a great deal of instructional oversight for juniors. Due to the short-staffing and unusual loading, attorneys that would normally be available, and to whom work could normally be shifted, are otherwise fully engaged. As a result, Appellant could not adequately prepare a Reply Brief on time.
>
> Because of vacations and the need to cover other attorneys that will be on vacation over the summer months, Appellant requests three months' extension.

7) Requests for extensions of time to file a Reply Brief are covered by 37 CFR §41.43(c), which is provided below:

> Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications and § 1.550(c) of this title for extensions of time to reply for *ex parte* reexamination proceedings.

8) 37 CFR §1.136(b) further states:

> When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for *sufficient cause and for a reasonable time specified.* Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute. (Emphasis added.)

DISCUSSION

Appellants, in their petition, basically argue that their counsel is short-staffed, and that they are unable to find time to file a Reply Brief and a Request for Oral Hearing, and that they need an additional three months to prepare these documents. This is not a sufficient cause to grant the petition, nor is the request a reasonable amount of time. Since a sufficient reason was not provided by Appellants, the Petition must be **denied**.

DECISION

In view of the foregoing, the Petition is DENIED.

James Donald Smith
Chief Administrative Patent Judge

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.
10/171,437	06/12/2002	Andrew C. Gilbert	01-1043	9796

63710 7590 09/13/2011

INNOVATION DIVISION
CANTOR FITZGERALD, L.P.
110 EAST 59TH STREET (6TH FLOOR)
NEW YORK, NY 10022

EXAMINER	
MEINECKE DIAZ, SUSANNA M	
ART UNIT	**PAPER NUMBER**
3684	

NOTIFICATION DATE	DELIVERY MODE
09/13/2011	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, MARY ANN GILBERT, ANDREW STERGIOPOULOS, and ANGELA STERGIOPOULOS

Appeal 2011-009747
Application 10/171,437
Technology Center 3600

DECISION ON PETITION

This is a decision on the "Renewed Petition for Extension of Time to File Reply Brief," filed August 5, 2011 ("Petition"). The Petition requests "appropriate consideration of a Rule 136(b) Petition for Extension of Time to Submit a Reply Brief filed on May 31, 2011, or in the alternative, for entry of a Reply Brief submitted herewith." (Petition 1).

FINDINGS

1) On September 7, 2010, Appellants filed a Notice of Appeal and a Pre-Brief Conference Request.

2) On September 17, 2010, a Pre-Brief Appeal Conference Decision was mailed to Appellants.

3) On March 17, 2011, Appellants filed an Appeal Brief, with a 5 month Extension of Time.

4) On March 31, 2011, an Examiner's Answer was mailed to Appellants.

5) On May 31, 2011, Appellants filed their first Petition requesting an Extension of Time for three months.

6) In their first Petition, Appellants requested a three month extension of time for the following reasons:

> Due to a recent resignation and other factors, Appellant's patent legal staff is currently down two attorneys from our peak staffing of seven seniors. Also, Appellant's in-house counsel are providing support to outside counsel for several contentious matters, actively engaged in a *pro bono* matter, and providing a great deal of instructional oversight for juniors. Due to the short-staffing and unusual loading, attorneys that would normally be available, and to whom work could normally be shifted, are otherwise fully engaged. As a result, Appellant could not adequately prepare a Reply Brief on time.
>
> Because of vacations and the need to cover other attorneys that will be on vacation over the summer months, Appellant requests three months' extension.

7) On June 3, 2011, the Chief Administrative Patent Judge denied Appellants' first Petition.

8) A Board of Patent Appeals and Interferences Docketing Notice was mailed to Appellants on July 12, 2011. The Docketing Notice assigned Appeal Number 2011-009747 to this application.

9) On August 5, 2011, Appellants filed the current Renewed Petition for Extension of Time, a Request for Oral Hearing, and a Reply Brief.

10) Requests for extensions of time to file a Reply Brief are covered by 37 C.F.R. § 41.43(c):

> Extensions of time under § 1.136(a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136(b) of this title for extensions of time to reply for patent applications . . . .

11) 37 C.F.R. § 1.136(b) further states:

> When a reply cannot be filed within the time period set for such reply and the provisions of paragraph (a) of this section are not available, the period for reply will be extended only for *sufficient cause and for a reasonable time specified.* Any request for an extension of time under this paragraph must be filed on or before the day on which such reply is due, but the mere filing of such a request will not affect any extension under this paragraph. In no situation can any extension carry the date on which reply is due beyond the maximum time period set by statute.

(Emphasis added).

ARGUMENTS

Appellants, in their current Petition, argue:

1) That the June 3, 2011, Petition Decision does not articulate a rational connection between the facts and the decision denying the Petition. (Petition 1).

2) That a senior attorney "departed some time ago and has not been replaced." (Petition 3).

3) That a second senior attorney resigned suddenly in March 2011. (Petition 2).

4) That a *pro bono* matter "flared up in March and required a great deal of time." (Petition 3).

5) That a divorce matter flared up during the months of May through July 2011. (Petition 3).

6) That two junior attorneys needed continued oversight. (Petition 3).

7) That vacations by "various members" of the firm started in mid-June 2011 and thus the "legal department has been strained to the limit in meeting its deadlines." (Petition 3).

8) That a lower showing of facts was presented in application 10/925,416, and a four month extension of time was granted. (Petition 3).

DISCUSSION

We acknowledge Petitioners' statement in Argument 1 in that the Decision mailed to Appellants on June 3, 2011, explained the basis for that Decision in a possibly conclusionary manner. This Decision, while reaching the same conclusion, will set forth the rationale more thoroughly.

In response to Arguments 2 and 3, the fact that the senior attorneys have left the firm is not a sufficient reason to grant an extension of time to file a Reply Brief under 37 C.F.R. § 1.136(b). Appellants, in this Petition, have not provided any indication whatsoever that the firm has attempted to replace the senior attorneys that have left the firm. Attorneys leaving a particular law firm is not uncommon, and law firms routinely deal with these situations and manage to meet their deadlines. Arguments 2 and 3 are not sufficient reasons to grant an extension of time to file a Reply Brief.

In Argument 4 the Petition states that a *pro bono* matter "flared up in March and required a great deal of time". The Petition sets forth, generally, that this matter required of "a great deal of time." There is no indication presented setting forth, for example, any deadlines regarding the *pro bono*

matter, or how many attorneys were working on the matter, or the amount of time actually involved. Rule 1.136(b) clearly states that "the period for reply will be extended only for sufficient cause." The conclusionary statement that a *pro bono* matter flared up and required a large amount of time is not a sufficient reason to grant an extension of time to file a Reply Brief.

Appellants' Argument 5 states that a divorce proceeding "flared up in May through July." In connection with this similarly conclusionary statement, the Petition also fails to provide, for example, any deadlines regarding the divorce matter, how many attorneys were working n the matter or the amount of time actually involved. It is noted that law firms routinely handle multiple deadlines and the burden of meeting all of their deadlines falls on the law firm. Accordingly, the divorce matter is not a sufficient reason to grant an extension of time to file a Reply Brief.

Appellants' Argument 6 urges that the training of junior attorneys is a sufficient reason to grant an extension of time to file a Reply Brief. The Petition simply states "two juniors need continuing oversight." (Petition 3). Again, there is no detail in the Petition to set forth why the training of two junior attorneys would be a sufficient reason to extend the time. The ongoing oversight of junior attorneys is also routine at law firms. Moreover, Appellants do not provide any details as to any exceptional amount of oversight needed.

Argument 7 speaks to vacations for counsel, which started in mid-June 2011 and also urges that this is a reason for an extension of time. This is not the case. It is noted that the Reply Brief and Request for Oral Hearing were due on May 31, 2011. Thus, it is clear that vacations

scheduled to take place after the date the Reply Brief and Request for Oral Hearing was due are not a sufficient reason to grant an extension of time to file a Reply Brief.

Lastly, Argument 8 Appellants argue that a Petition in Application 10/925,416 was granted with a lower showing of facts. This is erroneous. On June 14, 2010 a "Petition under 37 C.F.R. § 1.136(b) for Extension of Time to File Reply Brief" was filed. However, as of the time of the decision on this petition, there has been no decision to grant the extension of time requested in application 10/925,416.

DECISION

For the reasons set forth above, the Petition is DENIED.

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
www.uspto.gov

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 2314

MAILED

OCT 04 2010

OFFICE OF PETITIONS

In re Patent No. 7,643,455 :
Issue Date: January 5, 2010 :
Application No. 10/171,592 : ON PETITION
Filed: June 17, 2002 :
Attorney Docket No. 224427US2 :

This is a decision on the petition filed July 14, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the April M. Wise at (571) 272-1642. 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.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

AT&T LEGAL DEPARTMENT - HFZ
ATTN. PATENT DOCKETING
ONE AT&T WAY
ROOM 2A-207
BEDMINSTOR NJ 07921

MAILED

NOV 22 2010

OFFICE OF PETITIONS

Patent No. 6,650,743
Issued: November 18, 2003
Application No. 10/171,729
Filed: June 14, 2002
Attorney Docket No. AMT-9714C1

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.78(a)(3) AND
: REQUEST FOR CERTIFICATE OF
: CORRECTION

This is a decision on the petition, filed September 29, 2010, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120 to prior-filed nonprovisional application, by way of a certificate of correction.

The petition is **GRANTED**.

Petitioner contends that "this is a petition under 37 C.F.R. § 1.78(a)(3) for leave to clarify a previously made priority claim under 35 U.S.C. § 120 in connection with U.S. Patent No. 6,650,743." Petitioner further contends "although the priority lineage was not fully recited in the specification, the missing portion of the priority lineage was incorporated by reference at the time of filing the instant application."

A review of the preliminary amendment, the Utility Patent Application Transmittal, and the Oath or Declaration, all filed June 14, 2002, finds that they do not state the relationship of the above-identified application nor the intermediate application to the nonprovisional application 09/154,336.

Therefore, since a proper claim for priority under 37 CFR §§ 1.78(a)(3) was not included in the first sentence of the specification nor in the Oath or Declaration, or on the Utility Patent Application Transmittal as originally filed on June 14, 2002, petitioner must currently petition for that request to be recognized. Applicant failed to identify the relationship between the instant application or intermediate application and the prior-filed nonprovisional application as originally filed. Accordingly, the Office properly processed the information originally submitted by applicant.

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 June 14, 2002. 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 as 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.

Additionally, 37 CFR 1.78(a)(2)(ii) requires a statement that the entire delay between the date the claim as due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed 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.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the 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 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.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent regarding the above-identified patent. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition

shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Additionally, the 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.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter 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).

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

cc: Daniel J. Glitto
Hanley, Flight & Zimmerman, LLC
150 South Wacker Drive
Suite 2100
Chicago, Illinois 60606

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
10/171,729	06/14/2002	2643	1040	AMT-9714C1	11	3

CONFIRMATION NO. 3708

CORRECTED FILING RECEIPT

83417
AT&T Legal Department - HFZ
ATTN. Patent Docketing
One AT&T Way
Room 2A-207
Bedminstor, NJ 07921

Date Mailed: 11/22/2010

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)

Wayne Robert Heinmiller, Elgin, IL;
Robert Wesley Bossemeyer JR., St. Charles, IL;
Bruce Edward Stuckman, Algonquin, IL;

Power of Attorney: The patent practitioners associated with Customer Number 34431

Domestic Priority data as claimed by applicant

This application is a CON of 09/591,534 06/09/2000 PAT 6,445,781
which is a CON of 09/154,336 09/16/1998 PAT 6,101,246

Foreign Applications

If Required, Foreign Filing License Granted: 07/09/2002

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/171,729**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD OF PROVIDING CALLER IDENTIFICATION FOR CALLS PLACED OVER AN INTERNET

Preliminary Class

379

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
JAN 18 2012
OFFICE OF PETITIONS

In re Application of :
Davis et al. :
Application No. 10/172,733 : ON APPLICATION FOR
Filed: June 13, 2002 : PATENT TERM ADJUSTMENT
Docket No. 098888-1720 :

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 January 6, 2012. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred eighty-four (1484) days, not one thousand two hundred twenty-four (1224) 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.

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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). This is true even in this instance 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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

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).

---

[1] For example, if an 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 the applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office 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 decision should 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

Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED
AUG 30 2011
OFFICE OF PETITIONS

In re Application of	:	
Davis et al.	:	
Application No. 10/172735	:	ON APPLICATION FOR
Filing or 371(c) Date: 06/13/2002	:	PATENT TERM ADJUSTMENT
Atty Docket No.:	:	
098888-1001	:	

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 August 8, 2011. Applicants have determined that the correct Patent Term Adjustment is 1461 days, not 1266 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent. The application for patent term adjustment is properly treated under 37 C.F.R. § 1.705(b).

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 can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

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 decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

---

[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.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE CA 95172-1120

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of :
Wu, et al. :
Application No. 10/172,740 : NOTICE
Filed: June 13, 2002 :
Attorney Docket No. NAI1P304/02.238.01 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

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

Bib Data Sheet

CONFIRMATION NO. 2461

SERIAL NUMBER	FILING OR 371(c) DATE	CLASS	GROUP ART UNIT	ATTORNEY DOCKET NO.
10/172,740	06/13/2002 RULE	726	2132	NAI1P304/02.238.01

APPLICANTS

Shyhtsun Felix Wu, Davis, CA;
Aiguo Fei, San Jose, CA;
Fengmin Gong, Livermore, CA;

** CONTINUING DATA **********

** FOREIGN APPLICATIONS **********

IF REQUIRED, FOREIGN FILING LICENSE GRANTED
** 07/19/2002

Foreign Priority claimed	STATE OR COUNTRY	SHEETS DRAWING	TOTAL CLAIMS	INDEPENDENT CLAIMS
☐ yes ☐ no	CA	6	23	3

35 USC 119 (a-d) conditions met ☐ yes ☐ no ☐ Met after Allowance

Verified and Acknowledged _____ Examiner's Signature Initials

ADDRESS
28875

TITLE

METHOD AND APPARATUS FOR ADAPTIVELY CLASSIFYING NETWORK TRAFFIC

FILING FEE RECEIVED		
962	FEES: Authority has been given in Paper No. _____ to charge/credit DEPOSIT ACCOUNT No. _____ for following:	☐ All Fees ☐ 1.16 Fees (Filing) ☐ 1.17 Fees (Processing Ext. of time) ☐ 1.18 Fees (Issue) ☐ Other _____ ☐ Credit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

Mr. Paul D. Yasgar
Abbott Laboratories
100 Abbott Park Road
Dept. 377/AP6A
Abbott Park, Illinois 60064-6008

MAILED
APR 06 2011
OFFICE OF PETITIONS

In re Application of :
Dinesh O. SHAH et al. : DECISION DISMISSING PETITION
Application No. 10/172,944 : UNDER 37 CFR 1.137(b)
Filed: 17 June 2002 :
Atty. Docket No.: 6943US01 :

This is a decision on the petition under 37 CFR 1.137(b), filed 13 January 2011, to revive the above-identified application ("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. The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.137(b) to Revive Unintentionally Abandoned Application."

The Application became abandoned for failure to reply in a timely manner to the final Office action mailed 18 November 2009 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. A 3-month extension of time under the provisions of 37 CFR 1.136(a) was obtained along with a Notice of Appeal on April 27, 2010. As no appeal brief was filed, the application became abandoned on June 28, 2010, with notification mailed December 2, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a Statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The instant petition lacks item (1).

Regarding item (1), Petitioner's reply in the form of an Interview Request is not considered a proper submission under 37 CFR 1.114. *See*, MPEP 706.07(h).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries relating to this decision should be directed to Robert DeWitty (571-272-8427).

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED
APR 28 2011
OFFICE OF PETITIONS

Mr. Paul D. Yasgar
Abbott Laboratories
100 Abbott Park Road
Dept. 377/AP6A
Abbott Park, Illinois 60064-6008

In re Application of	:	
Dinesh O. SHAH et al.	:	DECISION GRANTING PETITION
Application No. 10/172,944	:	UNDER 37 CFR 1.137(b)
Filed: 17 June 2002	:	
Atty. Docket No.: 6943US01	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed April 13, 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 final Office action mailed 18 November 2009 ("outstanding Office action"), which set a shortened statutory reply period of three (3) months. A 3-month extension of time under the provisions of 37 CFR 1.136(a) was obtained along with a Notice of Appeal on April 27, 2010. As no appeal brief was filed, the application became abandoned on June 28, 2010, with notification mailed December 2, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Request for Continued Examination (RCE) and RCE fee, and the submission required under 37 CFR 1.114, (2) a petition fee of $1620, and (3) a statement of unintentional delay. The reply to the outstanding Office action is accepted as having been unintentionally delayed.

It is noted that Petitioner has paid the fee for petition under 37 CFR 1.137(b) twice (January 13, 2011 and April 13, 2011). Therefore, $1620 will be refunded to petitioner's Deposit Account No. 01-0025.

Telephone inquiries relating to this decision should be directed to Robert DeWitty, Petitions Examiner, Office of Petitions (571-272-8427).

The application file will be referred to Technology Center Art Unit 1641 for further action on the filed response.

for David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Jen Hsieh Shih
P.O. Box 63-298
Taichung 406
TAIWAN

MAILED

OCT 2 0 2010

OFFICE OF PETITIONS

In re Application of Jen Hsieh Shih :
Application No. 10/173,388 : Decision on Petition
Filing Date: June 18, 2002 :
Attorney Docket No. 3685DL :

This is a decision on the petition filed March 23, 2004, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application. The Office regrets the delay in the issuance of the instant decision.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 9, 2003, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 10, 2003. A Notice of Abandonment was mailed on February 10, 2004.

The instant petition requests the Office withdraw the holding of abandonment. The petition states petitioner never received the non-final Office action.

The general evidence to establish non-receipt of an Office action or notice is set forth in MPEP 711.03(c)(I)(A) which states,

> [A]n 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....

> 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....
>
> 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 instant petition does not discuss how mail is handled at the address of record.

The instant petition does not include a copy of any record where the Office action would have been entered had it been received.

The instant petition does not include a copy of a master docket or a statement such a master docket does not exist.

Any request for reconsideration should fully discuss all actions that would have been taken *if* the Office action had been received. When possible, a copy of documentation demonstrating an action was not taken should be supplied. If a request for reconsideration is filed, Petitioner should also ensure the request addresses all the following matters:

(1) Would the Office action have been placed in a specific location such as a file being kept for all matters involving the application? If yes, has petitioner searched the location/file to ensure the Notice is not present?

(2) Upon receipt of the Office action, would a written entry have been made in one or more locations? For example, would an entry have been made on the outside of a file? Would an entry have been made on a calendar in order to ensure the due date for responding to the Office action would not be missed? A copy of any papers where the Office action would have been entered if the Office action had been received should be supplied to the Office.

(3) Upon receipt of the Office action, would any electronic records have been made or altered? For example, would an entry have been made into a docketing system or electronic calendar in order to ensure the due date to respond to the Office action would not be missed? A copy (or print-out) of all papers where the Office

action would have been entered if the Office action had been received should be supplied to the Office.

(4) Does the inventor maintain a master docket for patent related matters? If yes, a copy of the master docket showing all matters with a due date of October 9, 2003, should be provided. If no, then Petitioner should explicitly state Petitioner does not maintain a master docket for patent related matters.

The instant decision is being mailed more than six years after the petition was filed. If Petitioner believes the six years of delay in the issuance of the decision have hindered Petitioner's ability to provide relevant evidence, Petitioner may wish to discuss the matter in any request for reconsideration.

Even if a party establishes non-receipt of an Office action, the Office will not withdraw the holding of abandonment if the Office was not provided with a proper and correct mailing address to use as the correspondence address of record. When the application was filed, Petitioner stated correspondence should be addressed to:

Jen Hsieh Shih
P.O. Box 63-298
Taichung 406
Taiwan

The July 9, 2003 Office action was sent to the address listed above.

Taiwan is not a country. Instead, Taiwan is part of the Republic of China. To the best of undersigned's knowledge, international mail sent to Taiwan should include a reference to the Republic of China in the country portion of the address. For example, the last line of an address located in Taiwan could state, "Taiwan (R.O.C.)."

Any request for reconsideration should discuss whether or not the correspondence address provided by Petitioner was "proper." Petitioner may wish to obtain a statement from a postal employee discussing the following issue: Based on the employee's experience, to what extent would listing "Taiwan" in the country portion of an international address, without any reference to the Republic of China, have increased the probability of mail being sent during 2003 being lost?

Petitioner has submitted $130 as a petition fee. However, a petition fee is unnecessary when filing a petition to withdraw the holding of abandonment. Therefore, the Office has scheduled a refund of the $130 fee.

Although not required, petitioner may wish to use the Office's Patent and Application Information Retrieval (PAIR) system in the future to help monitor correspondence mailed for the instant application. PAIR is a web-based means of electronically viewing the status of and documents for one's patent applications. Information concerning published applications or patents is available through Public or Private PAIR. Information concerning unpublished

applications is available through Private PAIR. Additional information regarding PAIR can be found at:

http://www.uspto.gov/ebc/pair_help.html
http://www.uspto.gov/ebc/registration_pair.html

Questions regarding PAIR should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The Office notes Petitioner may wish to file a petition to revive the application based on unintentional abandonment under 37 CFR 1.137(b) if Petitioner does not wish to file a request for reconsideration of the instant decision. A grantable petition pursuant to 37 CFR 1.137(b) would need to include a reply to the July 9, 2003 Office action (a copy is attached), the required petition fee of $810, and a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. A copy of a PDF "fillable" petition under 37 CFR 1.137(b) form can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Further correspondence with respect to this matter may be submitted as follows:

By Internet: A request for reconsideration may be filed electronically using EFS Web.[1] Document Code "PET.OP" should be used if the request is filed electronically.

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

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

Attached: Copy of July 9, 2003 Office action

cc: Jen Hsieh Shih
P.O. Box 63-298
Taichung 406
TAIWAN (R.O.C.)

[1] General Information concerning EFS Web can be found at http://www.uspto.gov/patents/process/file/efs/index.jsp.

UNITED STATES PATENT AND TRADEMARK OFFICE

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.
10/173,388	06/18/2002	Jen Hsieh Shih	3685DL	5880

7590 07/09/2003

Jen Hsieh Shih
P.O. Box 63-298
Taichung, 406
TAIWAN

EXAMINER	
TON, ANABEL	
ART UNIT	PAPER NUMBER
2875	

DATE MAILED: 07/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

pro se no response 7 days

Office Action Summary	Application No.	Applicant(s)	
	10/173,388	SHIH, JEN HSIEH	
	Examiner	Art Unit	
	Anabel M Ton	2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- 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).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 June 2002* .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ 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:

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)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in-
> (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
> (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

2. Claims 1-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Chen (6,419,370).

3. Chen discloses base including an orifice formed therein (23), a coupler including a shaft extended there from and rotatably engaged in said orifice of said base (22), and including a pair of flaps extended there from (221), and a space formed therein or defined between said flaps (fig1), said flaps each including an aperture formed therein, and a plurality of depressions formed therein and communicating with said aperture thereof (fig1), a light device including an extension rotatably received in said space of said coupler(1,212), and a tube laterally extended from said extension and having two ends rotatably received in said apertures of said flaps respectively(21, and said tube including at least one projection extended outward there from and selectively engaged in either of said depressions of said flaps(212), for securing said light device to said coupler at selected angular positions, and said coupler being rotatable relative to said

base about said shaft(fig.3), and said light device being rotatable relative to said coupler about said tube(fig.3), for allowing said light device to be rotated freely relative to said base(figs 4 and 5),tube includes a cut slot formed therein for defining at least one edge therein, and for increasing a resilience to force said at least one projection to engage in either of said depressions of said flaps(portion between 212),at least one projection is located close to said at least one edge for increasing the resilience to said at least one edge and to force said at least one projection to engage in either of said depressions of said flaps(fig 1), the coupler includes two half members secured together with fasteners(222), includes at least one groove formed therein for forming at least one spring leg therein, said base includes at least one bulge extended inward said orifice thereof, for engaging into said at least one Groove of said shaft and for securing said shaft and said coupler to said base at selected angular positions (223,311),said base is a clip(32).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anabel M Ton whose telephone number is (703) 305-1084. The examiner can normally be reached on 08:00-16:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (703) 305-4939. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9318 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Anabel M Ton
Examiner
Art Unit 2875

AMT
June 29, 2003

THOMAS M. SEMBER
PRIMARY EXAMINER

Notice of References Cited	Application/Control No. 10/173,388	Applicant(s)/Patent Under Reexamination SHIH, JEN HSIEH	
	Examiner Anabel M Ton	Art Unit 2875	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6419370	07-2002	Chen	362/98
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

FORM PTO-1449 U.S. Department of Commerce Patent and Trademark Office	Docket No.: 3685DL	Serial No.: N/A
LIST OF ART CITED BY APPLICANT	Applicant: Jen Hsieh SHIH	
(Use several sheets if necessary)		
	Filing Date: N/A	Group: N/A

JC40 U.S. PTO 10/178388 06/18/02

#2

U..S. Patent Documents

*Examiner Initial		Document Number	Issue Date	Name	Class	Subclass	Filing Date If Appropriate
DT	AA	3,969,620	07/13/76	Brooks	240	7.5	06/04/1975
	AB	4,091,442	05/23/78	Markey	362	61	10/18/1976
	AC	4,214,294	07/22/80	Bartlett	362	127	09/29/1978
	AD	4,892,278	01/09/90	Huang	248	124	02/07/1989
	AE	5,050,054	09/17/91	Hsu	362	285	01/03/1991
	AF	6,030,095	02/29/00	Moore et al.	362	226	03/10/1998
	AG	6,065,899	05/23/00	Adams et al.	403	397	10/27/1997
	AH	6,095,665	08/01/00	Drake et al.	362	276	04/03/1998
	AI	6,170,967	01/09/01	Usher et al.	362	394	06/14/1994
	AJ	6,371,631	04/16/02	Reutemann	362	390	06/17/1999
	AK						

Foreign Patent Documents

Translation

		Document Number	Date	Country	Class	Subclass	Yes	No
	AL							
	AM							
	AN							
	AO							
	AP							

OTHER ART (Including Author, Title, Date, Pertinent Pages, Etc.)

	AR	
	AS	
	AT	

Examiner [signature] Date Considered 6-27-03

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with your communication to applicant.

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.
10/173,464	06/14/2002	Stacey Schneider	OIC0272US	6313

60975 7590 08/17/2010
CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN, TX 78758

EXAMINER
LE, MICHAEL

ART UNIT	PAPER NUMBER
2163	

MAIL DATE	DELIVERY MODE
08/17/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Cyrus F. Bharucha
CAMPBELL STEPHENSON LLP
11401 Century Oaks Terrace
BLDG H, Suite 250
Austin, TX 78758

In re Application of:
Stacey SCHNEIDER et al
Application No. 10/173,464
Filed: June 14, 2002
For: METHOD AND COMPUTER FOR RESPONDING TO A QUERY

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition, filed 28 December 2009, under 37 CFR § 1.181 to withdraw the Finality of Office Action mailed 28 October 2009.

The petition is **DISMISSED AS MOOT**.

A review of the application file indicates that a Notice of Allowability and a Notice of Allowance and Issue Fee was mailed on 16 August 2010. Thus, renders the Petition of 28 December 2009 as moot.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture and Software

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

SEP 07 2011

OFFICE OF PETITIONS

THOMAS SWENSON
1118 13TH STREET
A-5
BOULDER CO 80302

In re
Wilber
Application No. 10/173,520
Filed: June 16, 2002
Patent No. 7,096,242
Issued: August 22, 2006

DECISION

This is a decision on the fee deficiency submission under 37 CFR 1.28(c), filed August 8, 2011.

The fee deficiency submission under 37 CFR 1.28 of $490 for the 3.5 year maintenance fee is hereby accepted.

The change of status to large entity has been entered.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

MAILED

NOV 22 2010

OFFICE OF PETITIONS

In re Patent No. 7,759,131	:	DECISION ON REQUEST
Mikkanen,et al.	:	FOR
Issue Date: July 20, 2010	:	RECONSIDERATION OF
Application No. 10/173,580	:	PATENT TERM ADJUSTMENT
Filed: June 18, 2010	:	and
Atty Docket No. **43289-202684**	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 20, 2010 which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by two thousand, one hundred and eight-five (2,185) 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, four hundred and thirty-two (2,432) days is GRANTED to the extent indicated herein.**

It is noted that patentees failed to account for the filing of the notice of appeal on January 30, 2007. 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 1,151 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, January 30, 2007, and ending on the decision by the Board of Patent Appeals and Interferences was mailed, March 25, 2010. Thus, the B delay is 707 days (1,858 - 1,151).

A review of the application file history reveals that the period of adjustment of 194 days entered for the filing of an examiner's answer on May 14, 2008, is unwarranted. The record reveals that the appeal brief filed July 2, 2007, was determined to be non-compliant with 37 CFR 41.37. An appeal brief was filed February 21, 2008, that was determined to be compliant with 37 CFR 41.37. The period of adjustment pursuant to 37 CFR 1.702(a)(2) and 37 CFR 1.703(a)(4), if any, is therefore properly calculated from the day after the date the four months from the date the appeal brief in compliance with 37 CFR 41.37 was filed, June 22, 2008. The examiner's answer was mailed May 14, 2008. Accordingly, no period of adjustment is warranted under 37 CFR 1.703(a)(4) in this instance. **The period of adjustment of 194 is being removed accordingly.**

Patentees' argument that reductions to the patent term adjustment of 94 days and 153 days for filings made during the period of appellate review is noted, but is not persuasive. With few exceptions, reductions to the patent term adjustment pursuant to 37 CFR 1.704 are not entered for filings made during the appellate period. The periods of reductions to the patent term adjustment of 94 days and 153 days will not be entered.

Accordingly, the patent term adjustment is 2,432 days (631 days of A delay + 707 days of B delay + 1,151 days of C delay - 0 days of overlap - 57 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 petition fee of 200.00 fee set forth in 37 CFR 1.18(e) is noted. 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 **two thousand, four hundred and thirty-two (2,432) 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 : 7,759,131 B2

DATED : Jul. 20, 2010

INVENTOR(S) : Mikkanen, 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 (1962) days

Delete the phrase "by 1962 days" and insert – by 2432 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

SUGHRUE MION, PLLC
2100 Pennsylvania Avenue, NW
Washington DC 20037-3213

MAILED

JAN 24 2011

OFFICE OF PETITIONS

In re Patent No. 6,939,257 :
Issue Date: September 6, 2005 :
Application No. 10/173,812 : NOTICE
Filed: June 19, 2002 :
Attorney Docket No. Q70576 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed December 10, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
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)
6839539	2005-01-04	10173912	2002-06-17	42390P11602C

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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)	2010-09-28
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. 6839539
Issue Date: January 4,2005
Application No. 10173912
Filed: June 17,2002
Attorney Docket No. 42390P11602C

:
: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.

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)
7219139	2007-05-15	10174403	2002-06-17	4001-0507

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS 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 Siritzky/	Date (YYYY-MM-DD)	2011-06-13
Name	Brian Siritzky	Registration Number	37497

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, 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. 7219139
Issue Date: May 15,2007
Application No. 10174403
Filed: June 17,2002
Attorney Docket No. 4001-0507

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed June 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 June 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.

Doc Code: PET.PTA.RCAL
Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)
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**

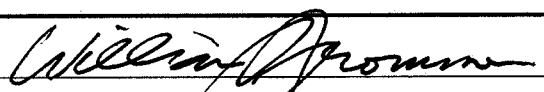
Attorney Docket Number: 450100-03964	
Application Number: 10/174,666	Filing Date (or 371(b) or (f) Date): June 18, 2002
Patent Number: 7,657,267	Issue Date: February 2, 2010
First Named Inventor: Naohisa Kitazato	
Title: RECEIVING APPARATUS AND METHOD, INFORMATION DISTRIBUTION METHOD, FILTERING AND STORING PROGRAM, AND RECORDING MEDIUM	

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 2, 2010
Name (Print/Typed) William S. Frommer	Registration Number 25,506

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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 08/12/2010

Applicant	: Naohisa Kitazato	: DECISION ON REQUEST FOR
Patent Number	: 7657267	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/174,666	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/18/2002	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **933** 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

David R. Graham
1337 Chewpon Avenue
Milpitas, CA 95035

In re Patent No. 7,171,625 :
Issue Date: January 30, 2007 :
Application No. 10/174,782 : ON PETITION
Filed: June 18, 2002 :
Patentee(s): Cristiano Sacchi :

This is a decision on the petition under 37 CFR 1.378(c), filed on May 6, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The present petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Duane M. Byers appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

Additionally, it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Since petitioner has demonstrated to the satisfaction of the Commissioner that the delay in timely paying the maintenance fee was unintentional, the petition under 37 CFR 1.378(c) is hereby **GRANTED**.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that the address given in the present petition slightly differs from the correspondence address of record. Thus, a courtesy copy of this decision is being mailed to the address given in the petition. If appropriate, a power of attorney or authorization of agent along with a "Fee Address Indication" and/or "Request for Customer Number" forms should be submitted, if petitioner desires to receive future correspondence regarding maintenance fees for the above patent. See USPTO forms PTO/SB/47 and PTO/SB/125.

This patented file is being forwarded to Files Repository.

Telephone inquiries should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Duane M. Byers
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808

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
10/174,782	06/18/2002	Cristiano Sacchi	ACT-001

CONFIRMATION NO. 7449

David R. Graham
1337 Chewpon Avenue
Milpitas, CA 95035

IMPROPER CPOA LETTER

Date Mailed: 06/22/2011

NOTICE REGARDING POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/16/2011. The Power of Attorney in this application is not accepted for the reason(s) listed below:

- The Power of Attorney is from an assignee and the Certificate required by 37 CFR 3.73(b) has not been received.

/amsmith/

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

DEC 20 2010

OFFICE OF PETITIONS

NIXON PEABODY LLP
300 S. RIVERSIDE PLAZA, 16TH FLOOR
CHICAGO IL 60606-6613

In re Patent No. 7,776,608
Issue Date: August 17, 2010
Application No. 10/174,833
Filed: June 20, 2002
Attorney Docket No. MSE #2624

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed October 18, 2010. Patentee requests that the determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from 648 to 744 days.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of seven hundred forty-four **(744)** days.

On August 17, 2010 the application matured into U.S. Patent No. 7,776,608 with a revised PTA thereon of 648 days. On October 18, 2010, patentee filed the instant request and disputes the reduction of one hundred eleven (111) days attributed to patentee for the submission of a paper filed April 29, 2010 after the Notice of Allowance was mailed.

This application is not subject to a terminal disclaimer.

The reduction of one hundred eighteen (111) days pursuant to 37 C.F.R. § 1.704(c)(10) is at issue.

The reduction of 111 days has been found to be incorrect. A review of the application file, as stated by Patentee, supports a conclusion that the reduction should be from the

filing of the Oath or Declaration on April 29, 2010 to the mailing of the response on May 14, 2010, not the issue date of the Patent on August 17, 2010. The period of delay pursuant to 37 C.F.R. § 1.704(c)(10) is therefore 15 days.

In view thereof, the patent term adjustment indicated in the patent should have been seven hundred forty-four **(744)** days.

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 **seven hundred forty-four (744) days**.

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,776,608 B2

DATED : August 17, 2010

INVENTOR(S) : D. Glenn Purcell

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 (648) days

Delete the phrase "by 648 days" and insert – by 744 days--

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.
10/174,984	06/20/2002	Steven Bress	0032-0002	8535

7590 06/03/2011

Steven Bress
7851-C Beechcraft Avenue
Gaithersburg, MD 20879

EXAMINER	
DOAN, DUC T	
ART UNIT	PAPER NUMBER
2188	

MAIL DATE	DELIVERY MODE
06/03/2011	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

Steven Bress
7851-C Beechcraft Avenue
Gaithersburg MD 20879

In re Application of: BRESS et al.	)	
Application No. 10/174,984	)	Petition under 37 CFR 1.324
Patent No. **7228379**	)	
Attorney Docket No. **0032-0002**	)	
Filed: June 2, 2002	)	
For: **SYSTEMS AND METHODS FOR REMOVING DATA STORED ON LONG-TERM MEMORY DEVICES**	)	

In view of the papers and petition filed May 19, 2011, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.324. The inventorship of this application has been changed by removing "Dan Bress" and "Mike Menz" as co-inventors, such that the current inventorship is now Bress, Steven (Germantown, MD); Menz, mark Joseph (Germantown, MD).

The petition has been **Granted**.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Inquiries to this decision may be directed to undersigned at (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security