



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.
13/775,754	02/25/2013	C. Earl Woolfork	1028.7	1030
68533	7590	08/25/2016	EXAMINER	
MEGAN LYMAN 1816 SILVER MIST CT. RALEIGH, NC 27613			FLANDERS, ANDREW C	
			ART UNIT	PAPER NUMBER
			2656	
			NOTIFICATION DATE	DELIVERY MODE
			08/25/2016	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):

MELYMAN@LYMANPATENTS.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

In re Patent No. 9,282,396 :
Issue Date: March 8, 2016 :
Application No. 13/775,754 : DECISION ON PETITION
Filed: February 25, 2013 : UNDER 37 CFR 1.78(e)
Patentee(s): C. Earl Woolfork :

This is a decision on the petition, filed August 3, 2016, which is being treated a petition under 37 CFR § 1.78(e), 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 Application Data Sheet (ADS) filed August 3, 2016, by way of a Certificate of Correction.

Since the application issued into a patent on March 8, 2016, a petition 37 CFR § 1.78(e) *and a Certificate of Correction and fee* is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application. *See* MPEP 1481.

The petition is **granted**.

A petition for acceptance of a claim for late priority under 37 CFR § 1.78(e) is only applicable to those applications filed after the expiration of the period specified in 37 CFR § 1.78(d)(3). In addition, the petition under 37 CFR § 1.78(e) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR § 1.78(d)(2) of the prior-filed application, which must be filed in an Application Data Sheet, unless previously submitted;
- (2) the petition fee set forth in § 1.17(m); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(d)(3) 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.

37 CFR § 1.78(e) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(d)(3) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR § 1.78(d)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

Art Unit: OPET

Petitioner is advised that this decision grants the petition to accept the unintentionally delayed domestic benefit claim to the prior filed application(s) because the petition requirements of 37 CFR 1.78(e) and the formal requirements for claiming domestic benefit (see MPEP 211.01 et. seq.) have been met. This acceptance should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). Whether a claimed invention in a nonprovisional application is entitled to the benefit of the filing date of a prior-filed application on the basis of the disclosure thereof is determined during examination if it becomes necessary to do so (e.g., intervening reference and interference proceeding). See MPEP 211.05.

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

This application is being forwarded to the Certificates of Correction Branch for processing the request for a Certificate of Correction in accordance with this decision.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning the processing of the Certificate of Correction should be directed to (571) 272-4200.

/Andrea Smith

Andrea Smith
Lead Paralegal Specialist
Office of Petitions

ATTACHMENT: Corrected Filing Receipt