

**PETITION FOR ACCEPTANCE OF AN UNINTENTIONALLY DELAYED
CORRECTION OF A BENEFIT CLAIM UNDER 37 C.F.R. §1.78(e)**

First Inventor: Roger Ignon	Conf. No.: 9223
Appl. No.: 18/094,884	Filed: January 9, 2023
Patent No.: 11,865,287	Issue Date: January 9, 2024
Title: DEVICES AND METHODS FOR TREATING SKIN	

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Commissioner:

Summary of Request

HydraFacial LLC (“Patent Owner”), as the owner of U.S. Patent No. 11,865,287 (the “Present Patent”), hereby respectfully requests that the United States Patent and Trademark Office (“USPTO”) grant the present Petition for Acceptance of an Unintentionally Delayed Correction of a Benefit Claim under 37 C.F.R. §1.78(e). The requested correction is set forth on the Corrected Application Data Sheet filed herewith. Patent Owner requests the USPTO to issue a Certificate of Correction and a Corrected Filing Receipt in accordance with this Petition.

Petition under 37 C.F.R. §1.78(e)

Patent Owner hereby petitions for the acceptance of an unintentionally delayed correction to the benefit claim under 37 C.F.R. §1.78(e). In support of this request, Patent Owner provides the following:

- (1) The reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(d)(2) to the prior-filed applications, through the Corrected ADS filed herewith, including all required markings;
- (2) The petition fee as set forth in 37 C.F.R. §1.17(m); and
- (3) The statement below that the entire delay between the date the benefit claim was due under 37 C.F.R. §1.78(d)(3) and the date the benefit claim was filed was unintentional.

STATEMENT OF UNINTENTIONAL DELAY:

The entire delay between the date the benefit claim was due under 37 CFR §1.78(d)(3) and the submission of the present Petition and accompanying Corrected Application Data Sheet was unintentional.

The original Application Data Sheet (“ADS”) filed on January 9, 2023 included all proper predecessor applications in the priority chain; the original ADS, however, also included inadvertent reference to three additional non-provisional applications that were never intended to be and do not belong in the priority claim for the Present Patent: U.S. Patent Application Nos. 15/660777, 14/698713, and 14/698673.

It was an unintentional clerical error in the original ADS to list U.S. Patent Application No. 16/517268 as a continuation of U.S. Patent Application No. 15/660777, and to list U.S. Patent Application No. 15/660777 as a continuation of U.S. Patent Application No. 15/660750. Rather, as reflected in the Corrected ADS submitted herewith, U.S. Patent Application No. 16/517268 is a continuation of U.S. Patent Application No. 15/660750.

Likewise, it was an unintentional clerical error in the original ADS to list U.S. Patent Application No. 14/700789 as a continuation of U.S. Patent Application No. 14/698713, and to list U.S. Patent Application No. 14/698713 as a continuation of U.S. Patent Application No. 14/698673. Rather, as reflected in the Corrected ADS submitted herewith, U.S. Patent Application No. 14/700789 is a continuation of U.S. Patent Application No. 13/267554.

The unintentional inclusion of priority claims to U.S. Patent Application No. 15/660777, 14/698713 and 14/698673 in the original ADS was only recently discovered and was the motivation for the prompt filing of this Petition and accompanying documents. Patent Owner submits that none of the three applications inadvertently listed in the original ADS was included in the priority claim of any of the priority applications to which the Present Patent properly claims priority, including the immediate parent of the Present Patent, i.e., U.S. Patent Application No. 17/165820. Notably, the inadvertent and unintentional inclusion of the three non-provisional applications in the original ADS of the Present Patent does not impact the earliest asserted provisional and non-provisional priority dates of the Present Patent.

Further, Paragraph [0001] the Specification of the Present Patent, as originally filed, provides the accurate priority data and does not include the three non-provisional applications inadvertently listed in the original ADS that accompanied the submission of the Specification and other application documents filed on January 9, 2023. This priority listing, as shown in Column 1 of the Present Patent, is reproduced below for convenience.

REFERENCE TO RELATED APPLICATIONS

This is a continuation of U.S. patent application Ser. No. 17/165,820 filed Feb. 2, 2021, which is a continuation of U.S. patent application Ser. No. 16/517,268 filed Jul. 19, 2019 and issued as U.S. Pat. No. 11,446,477 on Sep. 20, 2022, which is a continuation of U.S. patent application Ser. No. 15/660,750 filed Jul. 26, 2017 and issued as U.S. Pat. No. 10,357,641 on Jul. 23, 2019, which is a continuation of U.S. patent application Ser. No. 14/700,789 filed Apr. 30, 2015 and issued as U.S. Pat. No. 9,814,868 on Nov. 14, 2017, which is a continuation of U.S. patent application Ser. No. 13/267,554 filed Oct. 6, 2011 and issued as U.S. Pat. No. 9,474,886 on Oct. 25, 2016, which is a continuation of U.S. patent application Ser. No. 11/392,348 filed Mar. 29, 2006 and issued as U.S. Pat. No. 8,048,089 on Nov. 1, 2011, which claims the benefit of U.S. Provisional Application No. 60/755,310 filed Dec. 30, 2005 and U.S. Provisional Application No. 60/764,668 filed Feb. 2, 2006. The entireties of all of the aforementioned applications are hereby incorporated by reference herein.

In view of the foregoing, Patent Owner submits that, based on the documents originally filed with the USPTO for the Present Patent, it is clear that the requested correction of the inadvertent and unintentional priority benefit claim as requested is appropriate.

Based on the investigation conducted by the undersigned counsel for Patent Owner, the issue regarding the benefit claim on the original ADS and the Filing Receipt went unnoticed during prosecution of, and was unintentionally claimed within, the Present Patent. The corresponding issue with benefit claim on the front page of the Present Patent went unnoticed upon issuance. Neither of these issues with the benefit claims were noticed by Patent Owner nor responsible counsel until shortly before the filing of this Petition.

For at least the reasons presented above, Patent Owner submits that correction of the benefit claim is proper and requests granting of the present Petition and the issuance of corresponding Corrected Filing Receipt and Certificate of Correction.

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Patent Owner is submitting the petition fee as set forth in §1.17(m) with this request. Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: March 12, 2024

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