



King and Spalding LLP
1700 Pennsylvania Ave, NW
Suite 200
Washington DC 20006

MAILED
NOV 27 2012
OFFICE OF PETITIONS

In re Application of :
Edery et al. :
Application No. 13/290,708 : **DECISION DISMISSING PETITIONS**
Filed: November 7, 2011 : **UNDER 37 CFR 1.78(a)(3) AND (a)(6)**
Attorney Docket No. FIN0001-CON1-CIP1- :
CON4 :

This is a decision on the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed October 23, 2012 and supplemented on October 31, 2012, 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 is not acceptable as drafted because Application No. 09/551,302, filed April 18, 2000, does not properly claim benefit of Application No. 60/030,639, filed November 8, 1996. It

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cannot because the non-provisional application was filed more than 12 months after the filing date of the provisional application. It appears Application No. 08/790,097, filed January 29, 1997, claims benefit of Application No. 60/030,639, filed November 8, 1996. Please submit another amendment that corrects the priority chain.

37 CFR § 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(5)(ii) and the date the claim was filed was unintentional. 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(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the 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

By internet: EFS-Web
 www.uspto.gov/ebs/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
Senior Petitions Attorney
Office of Petitions.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yigal Mordechai EDERY, et al.

Group Art Unit: 2431

Serial No.: 13/290,708

Examiner: Christopher A. Revak

Filed: November 7, 2011

For: MALICIOUS MOBILE CODE RUNTIME MONITORING SYSTEM AND METHODS

CORRECTED PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY UNDER 35 U.S.C. §119(e) AND §120 FOR THE BENEFIT OF A PRIOR-FILED APPLICATION FILED UNDER 37 CFR § 1.78(a)(3)**Mail Stop Petition**

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Sir:

Applicant respectfully submits this corrected petition to the petition filed October 23, 2012 for the acceptance of an unintentionally delayed claim of priority under 35 U.S.C. § 119(e) and §120 for the benefit of prior-filed applications in the above-referenced patent application. In conjunction with this Petition, Applicant submits an Amendment to the Specification, and payment of the required fees.

Applicant understands that a petition for acceptance of a claim for late priority under 37 CFR §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §1.78(a)(2)(ii). Applicant understands that the petition under 37 CFR §1.78(a)(3) must be accompanied by (1) the reference required by 35 U.S.C. §119(e), §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 correction of the priority claim of the present application, filed November 7, 2011, to include a reference to prior-filed U.S. Patent Application Nos. 09/539,667, filed March 30, 2000, now U.S. Patent No. 6,804,780 and 60/030,639, filed November 8, 1996, is made after the expiration of the period specified in 37 CFR §1.78(a)(2)(ii).

In accordance with 35 U.S.C. §119(e), §120, and 37 CFR §1.78(a)(2)(i), an amendment to the specification of the present application which adds a reference to prior-filed U.S. Patent Application Nos. 09/539,667 and 60/030,639 is submitted in conjunction with this Petition. This amendment has been submitted separately as an Amendment to the Specification and includes no new matter. In accordance with 37 CFR §1.78(a)(2)(i), the amendment identifies the prior filed application by application number and indicates the relationship of the applications.

Applicant submits 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.

No additional fees are believed to be necessary since this document corrects the Petition originally filed on October 23, 2012, and the payment of the \$1,410 fee as required under 37 CFR §1.17(t) was electronically filed via EFS-Web with that submission. The Commissioner is authorized to charge any underpayment of fees, or to credit any overpayment, to Deposit Account No. 50-4402.

Applicant respectfully submits that this request and the amendment to the specification are diligently made. Granting of this petition is requested.

Respectfully submitted,

Date: October 30, 2012

By: /Dawn-Marie Bey - 44,442/

Dawn-Marie Bey

Reg. No. 44,442

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Yigal Mordechai EDERY, et al.

Group Art Unit: 2431

Serial No.: 13/290,708

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For: MALICIOUS MOBILE CODE RUNTIME MONITORING SYSTEM AND METHODS

**PETITION TO ACCEPT UNINTENTIONALLY DELAYED CLAIM OF PRIORITY
UNDER 35 U.S.C. §119(e) AND §120 FOR THE BENEFIT OF A PRIOR-FILED
APPLICATION FILED UNDER 37 CFR § 1.78(a)(3)**

Mail Stop Petition

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P. O. Box 1450
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Sir:

Applicant respectfully petitions for the acceptance of an unintentionally delayed claim of priority under 35 U.S.C. § 119(e) and §120 for the benefit of prior-filed applications in the above-referenced patent application. In conjunction with this Petition, Applicant submits an Amendment to the Specification, and payment of the required fees.

Applicant understands that a petition for acceptance of a claim for late priority under 37 CFR §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR §1.78(a)(2)(ii). Applicant understands that the petition under 37 CFR §1.78(a)(3) must be accompanied by (1) the reference required by 35 U.S.C. §119(e), §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.

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