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INTERNATIONAL PATENT LEGAL ADM.

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In re Application of	:	
SPICO, LLC	:	
Application No.: 14/306,412	:	DECISION ON PETITION
Filing Date: June 17, 2014	:	UNDER 37 CFR 1.78(c)
Attorney Docket No.: STAT692CON6	:	AND 1.78(e)
	:	

This is a decision on the petition under 37 CFR 1.78(c) and (e), filed June 13, 2016, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 120 for the benefit of priority to one or more prior-filed provisional and nonprovisional/international applications.

Under 37 CFR 1.78(c) and (e), a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 120 for the benefit of a prior-filed application must be accompanied by:

- (i) the reference required by 35 U.S.C. 119(e) and 120 and 37 CFR 1.78(a)(3) and 1.78(d)(2) to the prior-filed applications, unless previously submitted;
- (ii) the petition fee set forth in 37 CFR 1.17(m); and
- (iii) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(4) and (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.

With regard to item (i), A proper reference to the prior-filed applications has not been included in an application data sheet as required by 37 CFR 1.78(a)(3) and (d)(2). Specifically, the ADS does not provide a relationship between the instant application and 13/222,216.

Furthermore, application 13/855,452 (filed on April 2, 2013) cannot be a continuation of application 13/173,499 (issued as a patent on July 3, 2012) as the two applications lack continuity.

Furthermore, as set forth in MPEP 211.01(b), Section II, "Benefit Claims to Multiple Prior Applications", "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." In the instant case, several of the intermediate applications lack proper references to parent applications as follows:

Application 09/172,554 lacks a proper reference to application 60/146,817.

Application 09/412,895 lacks a proper reference to application 60/146,817.

Application 09/102,178 lacks proper references to its purported parent applications.

Application 09/271,571 lacks proper references to its purported parent applications.

Application 09/439,059 lacks proper references to its purported parent applications except for application 09/271,517.

Application 10/139,492 lacks proper references to its purported parent applications except for applications 09/439,059 and 09/271,517.

Application 11/395,685 lacks proper references to its purported parent applications except for applications 10/139,492, 09/439,059 and 09/271,517.

Before the petition can be granted, the various intermediate applications must be amended to include an appropriate references to their parent applications. This requires the submission of a petition under 37 CFR 1.78 in each intermediate application along with the appropriate references as required by 37 CFR 1.78.

Furthermore, application 09/102,178 (filed on June 22, 1998) cannot be a continuation in part of application 09/412,895 (filed on October 5, 1999) since application 09/412,895 is not an earlier filed application relative to application 09/102,178.

With regard to item (ii), the petition fee set forth in 37 CFR 1.17(m) has been submitted.

With regard to item (iii), the statement of unintentional delay contained in the petition differs slightly from the language contained in 37 CFR 1.78(c)(3) and (e)(3) and is hereby construed as a statement that the entire delay between the date the claim was due under 1.78(a)(4) and (d)(3) and the date the claim was filed was unintentional. If this interpretation is incorrect, applicant is required to immediately notify the Office. As construed, the provided statement of unintentional delay is acceptable.

For the reasons above, the petition under 37 CFR 1.78(c) and (e) is **DISMISSED** without prejudice.

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, International Patent Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the International Patent Legal Administration.

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