

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

1 st Named Inventor	: Michael Tasler	Examiner	: Kim, Harold J.
Serial No.	: 11/078,778	Group Art Unit	: 2181
Filing Date	: March 11, 2005	Confirmation No.	: 8978
Docket No.	: 9576/96910	Status	: Expressly Abandoned

Title : **ANALOG DATA GENERATING AND PROCESSING DEVICE FOR USE WITH A PERSONAL COMPUTER**

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

PETITION FOR EXPEDITED REVIEW UNDER 37 CFR 1.182

Papst Licensing GmbH & Co. KG (“Papst” or “Applicant”) petitions the Director under 37 § C.F.R. 1.182 for expedited review of the accompanying petition under 37 C.F.R. § 1.55 and 37 C.F.R. § 1.78 for a delayed priority claim. Applicant requests expedited review due to currently pending litigation and prosecution of patents related to U.S. Application No. 11/078,778. Early notification of the granting of this petition is respectfully requested.

CONCLUSION

Based on the reasons set forth above, Applicant respectfully requests that the Director grant this petition.

The Director is hereby authorized to charge any fees which may be required regarding this filing, or credit any overpayment, to Deposit Account No. 19-0513. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or entirely missing, the Director is authorized to charge the unpaid amount to Deposit Account No, 19-0513.

Date: November 10, 2016

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PETITION UNDER 37 C.F.R. § 1.55 and § 1.78 FOR DELAYED CLAIM OF PRIORITY

Papst Licensing GmbH & Co. KG ("Papst" or "Applicant"), petitions the Director under 37 C.F.R. § 1.55 and §1.78 for a delayed claim of priority. The above-referenced U.S. Application No. 11/078,778 ("778 Application") is entitled to domestic priority to U.S. Application No. 10/219,105, filed August 15, 2002, which is a divisional application of U.S. Application No. 09/331,002, filed June 14, 1999, and is also entitled to foreign priority to PCT Application No. PCT/EP98/01187, filed March 3, 1998, which claims priority to German Application No. DE 19708755.8, filed March 4, 1997. It has recently come to Applicant's attention that the filing documents accompanying the '778 Application mistakenly omit a specific reference to U.S. Application No. 09/331,002, the National Stage of PCT Application No. PCT/EP98/01187; this omission is a result of an administrative error. Applicant intended to claim priority to each prior-filed U.S. Application and foreign application in the filing documents accompanying the '778 Application, which is evidenced by the record. As such, a delay in expressly claiming such priority to U.S. Application No. 09/331,002 has resulted, which Applicant seeks to correct by this Petition. Applicant further contends that the entire delay between the date the benefit claim was due and the date the benefit claim was filed was unintentional.

For the reasons set forth in this Petition, Applicant contends that the Patent Office should GRANT this Petition under 37 C.F.R. § 1.55 and §1.78.

STATEMENT OF FACTS

1. On March 4, 1997, Applicant filed German Patent Application No. 19708755.8.
2. Within twelve months of filing German Patent Application No. 19708755.8, Applicant filed PCT Application No. PCT/EP98/01187 on March 3, 1998, claiming priority to German Patent Application No. 19708755.8.
3. Applicant timely entered the U.S. National Stage by filing U.S. Application No. 09/331,002 on June 14, 1999, now U.S. Patent No. 6,470,399. This National Stage entry application properly claimed priority to PCT Application No. PCT/EP98/01187 and German Patent Application No. 19708755.8.¹
4. While U.S. Application No. 09/331,002 was co-pending, Applicant filed a divisional application, U.S. Application No. 10/219,105, on August 15, 2002, now U.S. Patent No. 6,895,449. U.S. Application 10/219,105 properly claimed domestic priority to U.S. Application No. 09/331,002, and foreign priority to PCT/EP98/01187 and German Patent Application No. 19708755.8.²
5. The '778 application, which is the subject of this Petition, was timely filed as a continuation application of U.S. Application No. 10/219,105 on March 11, 2005.³ The Transmittal Form accompanying the '778 Application shows that the box marked "Continuation" is selected, and lists U.S. Application No. 10/219,105 as the prior-filed application.⁴
6. The Oath and Declaration filed with the '778 Application lists the foreign priority information, specifically listing PCT Application No. PCT/EP98/01187 and German Patent Application No. 19708755.8.⁵
7. A Bibliographic Data Sheet for the '778 Application issued by the Patent Office on June 20, 2006 lists the continuing data (U.S. Application No. 10/219,105) and the foreign applications (German Patent Application No. 19708755.8 and PCT Application No. PCT/EP98/01187).⁶

¹ U.S. Patent No. 6,470,399, cover page, (86), (30).

² U.S. Patent No. 6,895,449, cover page, (62), (30).

³ U.S. Application No. 11/078,778, Utility Patent Application Transmittal Form, provided as Appendix A.

⁴ See Appendix A.

⁵ U.S. Application No. 11/078,778, Oath and Declaration, provided as Appendix B.

⁶ See '778 Application, Bibliographic Data Sheet, provided as Appendix C.

8. On the same Bibliographic Data Sheet for the '778 Application, the Examiner verified and acknowledged by signature that foreign priority was claimed, and that 35 U.S.C. § 119 (a-d) conditions were met.⁷

9. The '778 Application published on July 21, 2005 as U.S. Patent Application Publication No. 2005/0160199, with accurate foreign application priority data listed on the cover page.⁸

10. On July 28, 2006, the Patent Office issued a Notice of Allowability for the '778 Application.⁹ In the Notice of Allowability, the Examiner acknowledged “all” of the claims for foreign priority.¹⁰ In particular, the Examiner indicated that the “Certified copies of the priority documents have been received in Application No. 09/331,002”.¹¹

11. Several continuation applications were filed after U.S. Application No. 11/078,778 that claim domestic priority to U.S. Application 09/331,002 filed on June 14, 1999, and foreign priority to PCT/EP98/01187 filed on March 3, 1998 and German Application No. 19708755.8 filed on March 4, 1997 (U.S. Application No. 11/467,073, now U.S. Patent No. 8,966,144,¹² U.S. Application No. 11/467,092, now U.S. Patent No. 9,189,437,¹³ U.S. Application No. 11/928,283, published as US2008/0209088,¹⁴ and U.S. Application No. 12/891,443, now U.S. Patent No. 8,504,746¹⁵).

12. On August 24, 2016, Applicant was made aware of an administrative error that mistakenly omits a specific reference to U.S. Application No. 09/331,002 in the filing documents accompanying the '778 Application, prompting the Applicant to file this Petition.

⁷ See Appendix C.

⁸ U.S. Patent Application Publication No. 2005/0160199, cover page.

⁹ See '778 Application, Notice of Allowability, provided as Appendix D.

¹⁰ *Id.*

¹¹ *Id.*

¹² U.S. Patent No. 8,966,144, Col. 1, lines 8–13.

¹³ U.S. Patent No. 9,189,437, Col. 1, lines 8–13.

¹⁴ U.S. Patent Application Publication No. 2008/0209088, ¶ [0001].

¹⁵ U.S. Patent No. 8,504,746, Col. 1, lines 8–16.

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