IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Application of PIRIM		Confirmation No.	9051
Patent No.	7,650,015 B2	Group:	2624
Issue Date:	January 19, 2010	Examiner:	SETH, MANAV
Application No.	11/676,926	Docket No.	8042-2-1
Filing Date:	February 20, 2007		
For: IMAGE PROCESSING METHOD			

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PETITION TO ACCEPT UNINTENTIONALLY DELAYED PRIORITY CLAIMS UNDER 37 CFR §§ 1.78(a)(3) and 1.55(c)

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ATTN: Petitions Office
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir or Madam:

Patent Owner hereby petitions (I) under 37 CFR § 1.78(a)(3) to request acceptance of unintentionally delayed domestic priority claims under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed co-pending non-provisional applications and international applications designating the United States; and (II) under 37 CFR § 1.55(c) to request acceptance of an unintentionally delayed foreign priority claim under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application.

PERTINENT FACTS

1. U.S. Patent Application No. 09/230,502 (entitled "Image Processing Apparatus and method") was filed on September 13, 1999 and issued as U.S. Patent No. 6,486,909.

a. U.S. Patent No. 6,486,909 is the § 371 national stage of international application No. PCT/FR97/01354, filed on July 22, 1997. Patrick Pirim is the inventor for both PCT/FR97/01354 and U.S. Patent No. 6,486,909.

   i. International Application No. PCT/FR97/01354 claims priority to French Patent Application No. FR 96 09420, filed in France on July 26, 1996.

b. U.S. Patent No. 6,486,909 also claims priority to French Patent Application No. FR 96 09420, filed in France on July 26, 1996.

c. The priority and relationship to PCT/FR97/01354 and FR 96 09420 are recited on the face of U.S. Patent No. 6,486,909.

2. U.S. Patent Application No. 09/792,294 (entitled "Methods and Apparatus for Identifying and Localizing an Area of Relative Movement in a Scene") was filed on February 23, 2001 and issued as U.S. Patent No. 7,181,047.

a. U.S. Patent No. 7,181,047 claims priority as a continuation-in-part to U.S. Patent Application No. 09/230,502, filed on September 13, 1999, now U.S. Patent No. 6,486,909.

b. A Petition to Accept Unintentionally Delayed Priority Claim and Request for Certificate of Correction has been filed for U.S. Patent No. 7,181,047 to perfect priority claims to International Application No. PCT/FR97/01354 and French Patent Application No. FR 96 09420.

3. U.S. Patent Application No. 11/676,926, the application for the above-referenced patent, was filed on February 20, 2007 and issued as the above-referenced patent, U.S. Patent No. 7,650,015.

a. The first paragraph of the specification in U.S. Patent No. 7,650,015 states: "The present application claims the priority of U.S. application Ser. No. 09/792,294, filed Feb. 23, 2001, now U.S. Pat. No. 7,181,047; which claims priority to U.S. application Ser. No. 09/230,502, filed Jan. 26, 1999, now U.S. Pat. No. 6,486,909; which claims priority to International Application No. PCT/EP98/05383, filed Aug. 25, 1998; all of which are incorporated herein by reference in their entirety."

b. Applicant attempted to correct and clarify priority claims in a Request for Corrected Filing Receipt filed on August 27, 2007, which states: "As noted in the Official Filing Receipt, the instant application is a divisional of US 09/792,294. The '294 application claims priority to two applications: it is a §371 national phase application of PCT/EP98/05383 and a CIP application of US 09/230,502. The '502 application is a §371 national phase application of PCT/FR97/01354, which claims the priority benefit of FR 96/09420."

4. In U.S. Patent No. 7,650,015, a priority claim to U.S. Patent Application No. 09/792,294, filed February 23, 2001, now U.S. Patent No. 7,181,047 was unintentionally omitted.

5. In U.S. Patent No. 7,650,015, a priority claim to U.S. Patent Application No. 09/230,502, filed September 13, 1999, now U.S. Patent No. 6,486,909 was unintentionally omitted.

6. In U.S. Patent No. 7,650,015, a priority claim to International Application No. PCT/EP98/05383 was unintentionally omitted.

7. In U.S. Patent No. 7,650,015, a priority claim to International Application No. PCT/FR97/01354 was unintentionally omitted.

8. In U.S. Patent No. 7,650,015, a priority claim to French Patent Application No. FR 96 09420 was unintentionally omitted.

9. Patent owner has acted diligently and without delay from the time the errors in Facts 4-8 were discovered to the filing of the present Petition.

10. A Request for Certificate of Correction of U.S. Patent No. 7,650,015, together with supporting documentation, has been filed concurrently:

    a. The Request for Certificate of Correction requests to perfect the unintentionally delayed claims for domestic priority under 35 U.S.C. § 255, 37 CFR § 1.323 and MPEP § 1481.03 because the requirements of 37 CFR § 1.78(a)(1) and MPEP § 1481.03 have been met

    b. The Request for Certificate of Correction also requests to perfect the unintentionally delayed claim for foreign priority under 35 U.S.C. § 255, 37 CFR § 1.323 and MPEP § 201.16 because the requirements of 35 U.S.C. 119(a)-(d) or (f) had been satisfied in the parent application prior to issuance of the patent and the requirements of 37 CFR 1.55(a) were met.

DISCUSSION

I.   UNINTENTIONALLY DELAYED DOMESTIC PRIORITY CLAIMS

A. Authority For Unintentional Delay In Claiming the Benefit of Prior-Filed Co-Pending Non-Provisional Applications and International Applications Designating the U.S. Under 35 USC §§ 120 and 365(c) In The Above-Referenced Patent

37 CFR § 1.78(a)(3) provides that:

> (3) If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented after the time period provided by paragraph (a)(2)(ii) of this section, the claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America may be accepted if the reference identifying the prior-filed application by application number or international application number and international filing date was unintentionally delayed. A petition to accept an unintentionally delayed claim under 35 U.S.C. 120, 121, or 365(c) for the benefit of a prior-filed application must be accompanied by:

(i) The reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section to the prior-filed application, unless previously submitted;

(ii) The surcharge set forth in § 1.17(t); and

(iii) A statement that the entire delay between the date the claim was due under paragraph (a)(2)(ii) of this section 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.

MPEP § 1481.03 provides that:

Where priority is based upon 35 U.S.C. 120 to **a national application**, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11); and

(C) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

Where 35 U.S.C. 120 and 365(c) priority based on **an international application** is to be asserted or corrected in a patent via a Certificate of Correction, the following conditions must be satisfied:

(A) all requirements set forth in 37 CFR 1.78(a)(1) must have been met in the application which became the patent to be corrected;

(B) it must be clear from the record of the patent and the parent application(s) that priority is appropriate (see MPEP § 201.11);

(C) the patentee must submit together with the request for the certificate, copies of documentation showing designation of states and any other information needed to make it clear from the record that the 35 U.S.C. 120 priority is appropriate (see MPEP § 201.13(b) as to the requirements for 35 U.S.C. 120 priority based on an international application; and

(D) a grantable petition to accept an unintentionally delayed claim for the benefit of a prior application must be filed, including a surcharge as set forth in 37 CFR 1.17(t), as required by 37 CFR 1.78(a)(3).

If all the above-stated conditions are satisfied, a Certificate of Correction can be used to amend the patent to make reference to a prior copending application, or to correct an incorrect reference to the prior copending application, for benefit claims under 35 U.S.C. 120 and 365(c).

B. Claim Under 35 U.S.C. §§ 120 or 120 and 365(c) and Surcharge Set Forth In 37 CFR § 1.17

Patent Owner respectfully requests acceptance of unintentionally delayed priority claims

under 35 U.S.C. § 120 as a divisional of application No. 09/792,294, filed Feb. 23, 2001, now

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