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**MAILED**

**NOV 01 2011**

In re Application of :  
Brad Olson et al :  
Application No. 11/925,798 :  
Filed: October 27, 2007 :  
Attorney Docket No. 3082/US :

**OFFICE OF PETITIONS  
ON PETITION**

This is a decision on the petition filed, June 21, 2011, under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3700 (Technology Center Director), dated April 21, 2011, which refused to withdraw the finality of the Office action mailed November 27, 2009.

The decision of the Technology Center Director has been reviewed and no error has been found in that decision. Accordingly, the request to withdraw the finality of the Office action is **Denied**.

This application became abandoned on February 28, 2010 for failure to respond the final Office action of November 27, 2009.

Petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the \$810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail:                   Mail Stop PETITION  
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By hand:                   U. S. Patent and Trademark Office  
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Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6824.

  
Anthony Knight  
Director  
Office of Petitions