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OFFICE OF PETITIONS

In re Application of :
David Nir :
Application No. 09/759,228 : ON PETITION
Filed: January 16, 2001 :
Attorney Docket No. 1296/31) :

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.181",
filed January 10, 2007.

The petition is **DENIED**. This decision is a final agency action
within the meaning of 5 U.S.C. § 704 for purposes of seeking
judicial review. See MPEP 1002.02.

Procedural History:

- On March 27, 2001, Applicant filed a paper entitled
"Notification of Change of Address". The paper read, in its
entirety, "This is advise that the applicant has changed its
address to the following address: Lynx Photonic Networks,
Inc., 26775 Malibu Hills Road, Agoura Hills, California
91301-5355, U.S.A."
- The Office mailed a non-final action on September 13, 2001
to this address, setting a three (3) month period for reply.
- On September 18, 2001, Applicant filed a Change of
Correspondence Address, instructing the Office to change the
correspondence address to "Dr. Mark Friedman Ltd., c/o Bill
Polkinghorn - Discovery Dispatch, 9003 Florin Way, Upper
Marlboro, MD 20772".

- No reply was received, and as such, the application became abandoned on December 14, 2001.
- The Office mailed a Notice of Abandonment on March 26, 2002.
- Applicant filed a petition to withdraw the holding of abandonment on June 4, 2002, stating that he never received the Office action. In support thereof, applicant included a copy of his docket records.
- The petition was dismissed in a decision mailed on January 3, 2003. The decision explained that the docket records submitted by petitioner did not come from the address to where the September 13, 2001 Office action was mailed.
- Applicant filed a renewed petition on June 4, 2002, which was dismissed in a decision mailed on January 3, 2003.
- Applicant filed a renewed petition again on February 5, 2003. This time, Applicant argued that the March 27, 2001 "Notification of Change of Address" was not intended to change the correspondence address of record, but was merely filed to inform that Office that the Applicant had changed its address. The renewed petition was dismissed in a decision mailed on June 18, 2004.
- Applicant filed a renewed petition on August 30, 2004, which was again dismissed in a decision mailed on November 20, 2006.

Opinion:

Concerning changing the correspondence address, MPEP 601.03 states that the "required notification of change of correspondence address need take no particular form. However, it should be provided in a manner calling attention to the fact that a change of address is being made." Accordingly, when Applicant filed the March 27, 2001 "Notification of Change of Address", the Office acted properly in changing the correspondence address. No indication was made on the notification that it was not intended to change the correspondence address. Accordingly, the Office did not err in mailing the September 13, 2001 Office action to Lynx Photonic Networks.

Petitioner may revive the application pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The failure to promptly file a petition under 37 CFR 1.137(b) may be considered to be intentional delay, and held to be an absolute bar to revival.

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

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
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By FAX: (571) 273-8300
 Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to Petitions Attorney Cliff Congo at (571)272-3207.



Charles Pearson
Director
Office of Petitions