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AUG 05 1998

SPECIAL PROGRAMS OFFICE
DAG FOR PATENTS

In re Application of :
Alexander H. Slocum et al. : DECISION DISMISSING
Application No. 08/947,682 : PETITION
Filed: September 29, 1997 :
Attorney Docket No. 1003DIVI-CO :

This is a decision on the petition filed April 13, 1998, requesting that the above-identified application be accorded a filing date of September 19, 1997.

Petitioners allege that the application was deposited in Express Mail service on September 19, 1997. In support, the petition is accompanied by a copy of Express Mail receipt No. EH595819587US showing a "date in" of September 19, 1997.

On September 19, 1997, 37 CFR 1.10(c) stated that

Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that: (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date; (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

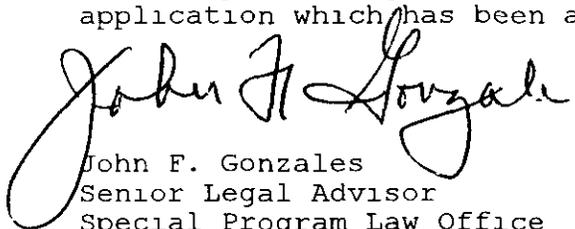
In this case, the petition fails to show that Express Mail label No. EH595819587US was placed on the application papers prior to the original mailing. The only Express Mail label number found on the application papers is EH59581987US.

In view of the above, the petition is dismissed.

It is noted that the prior application was pending on September 29,

1997. Therefore, the September 19, 1997 filing date requested is not necessary to establish continuity.

The application is being forwarded to the Office of Publications for further processing with a filing date of September 29, 1997, as an application which has been allowed.

A handwritten signature in black ink, reading "John F. Gonzales". The signature is written in a cursive style with a large, looping initial "J".

John F. Gonzales
Senior Legal Advisor
Special Program Law Office
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JFG



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**OFFICE OF PETITIONS
A/C PATENTS**

In re Application of :
James R. Oliff : DECISION GRANTING
Application No. 08/857,743 : PETITION
Filed: May 15, 1997 :
Attorney Docket No. D-2963 :

This is a decision on the petition under 37 CFR 1.10(d) filed July 31, 1997, requesting that the above-identified application be accorded a filing date of May 15, 1997, rather than the presently accorded filing date of May 16, 1997.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited in Express Mail service on May 15, 1997, prior to the last scheduled pickup for that day pursuant to the requirements of 37 CFR 1.10. However, the Express Mail label identified in the original application papers shows a "date-in" of May 16, 1997. Applicant is alleging that the date of mailing shown by the Express Mail receipt is a U.S. Postal Service (USPS) error and the correct date of mailing is May 15, 1997.

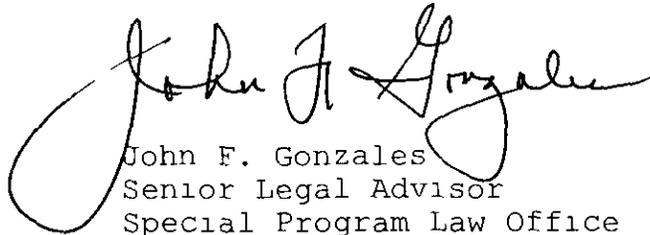
In support, the petition is accompanied by a copy of an Express Mail log maintained by the petitioner showing an entry made on May 16, 1996, at 11:30 a.m. by Carol D. Cohn indicating that a patent application identified by attorney docket No. D-2963 and Express Mail label No. EM393616294US was deposited in an Express Mail drop box on May 15, 1997, at 4:50 p.m. and that the last scheduled pickup for the box on that date was 5:00 p.m. The petition is also accompanied by a declaration of Carol D. Cohn stating that she deposited the application in Express Mail service on May 15, 1997, and that she made the log entry on May 16, 1997.

A review of the original application papers present in the official file shows that they were received in the Patent and Trademark Office (Office) with attorney docket No. D-2963 and Express Mail label No. EM393616294US thereon.

In view of the evidence present in the file, it is concluded that the "date-in" shown on the Express Mail label is incorrect and that the correct date of deposit in Express Mail service is May 15, 1997.

In view of the above, the application is entitled to a filing date of May 15, 1997. The petition is granted.

The application is being returned to Initial Patent Examination Division for correction of the filing date to May 15, 1997.

A handwritten signature in cursive script that reads "John F. Gonzales". The signature is written in black ink and is positioned to the left of the typed name and title.

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