NJL copy

BROWDY AND NEIMARK
ATTORNEYS AT LAW
PATENT AND TRADEMARK CAUSES
SUITE 300
419 SEVENTH STREET, N. W.
WASHINGTON, D. C. 20004
TELEPHONE (202)-628-5197

SHERIDAN NEIMARK
ROGER L. BROWDY

ANNE M. KORNBAU
NORMAN J. LATKER
NICK BROMER*
(*PA BAR ONLY)

OF COUNSEL
IVER P. COOPER
A. FRED STAROBIN

TELECOPIER FACSIMILE
(GROUPS I, II,& III)
(202) 737-3528
(202) 393-1012

TELEX: 248633

SENIOR COUNSEL
ALVIN BROWDY

PATENT AGENT
ALLEN C. YUN, PH.D.

September 25, 1995

Societa Italiana Brevetti
Piazza S. Jacopo, 278
62100 Arezzo
ITALY

VIA FACSIMILE

Re: U.S. Pat. 5,,044,628 - Issued: Sep. 3, 1991
Riccardo BRACCI et al.
Assignee: TEK S.R.L.
Your Ref: FI/X11162/in
Our Ref : Bracci=1

Gentlemen:

This will acknowledge receipt of your facsimile of September 21, 1995, regarding the above-identified U.S. patent.

We are enclosing with this letter copies from the Patent and Trademark Office Rules regarding "Acceptance of Delayed Payment of Maintenance Fee in Expired Patent to Reinstate Patent", Section 1.378 (a) through (e), as well as the Government fees involved Section 1.20 (a) through (j).[1]

As you can glean from these rules, there are two ways in which to go about reinstating a patent. The first is when alleging unavoidably delayed payment of the maintenance fee (§ 1.378(b)) and the second is when alleging unintentionally delayed payment of the maintenance fee (§ 1.378(c)). The former involves lower Government fees but requires much more work and is not certain. The latter involves higher Government fees but is substantially automatic as long as the patentee can state in good faith that the delay in payment of the maintenance fee was unintentional. If the failure to pay was intentional, neither avenue of reinstatement is available. We cannot advise attempting to reinstate this patent on the "unavoidable" basis.

---

[1] Government fees will be increasing slightly as of October 1, 1995.

If you file a petition for unintentionally delayed payment, please note that the petition must be filed within twenty-four months after the six month grace period has expired, but must be filed with diligence after the error is discovered.

We are concerned, based on our understanding of the facts as set forth briefly in your letter of September 21, 1995, that the delay in payment may not have been either unavoidable or unintentional. We suggest that you investigate the facts more thoroughly to determine whether there was some mis-communication or the like, e.g., the matter was put aside to wait until the due date in the hope that the financial situation would improve by that time, but when the due date arrived, the matter was unintentionally overlooked. If the patentee knew when the grace period expired and made an intentional decision not to pay the fee, it may not be possible to reinstate the patent.

Please advise us, via facsimile, if you wish our offices to prepare appropriate petitions and to assume responsibility for payment of the maintenance fees for these patents in the future. Once so authorized, we will enter the annuity dates back into our computerized docketing system as well as the **September 3, 1996** deadline for reinstating the patent.

With best regards, we remain,

Sincerely,

Sheridan Neimark

SN:rlm
Encls.