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HALL, PRIDY, MYERS & VANDE SANDE
10220 RIVER ROAD
SUITE 200
POTOMAC, MD 20854

COPY MAILED
APR 7 2006
OFFICE OF PETITIONS

In re Application of :
Justine Smith, Christopher S. O'Brien Wheeler, :
David Cirjak and Peter Chapman :
Application No. 29/156,776 :
Filed: March 8, 2002 :
For: ENCLOSURE FOR A HANDHELD :
COMPUTER :

DECISION GRANTING PETITION
UNDER 37 CFR 1.183

This is in response to the "Petition Pursuant to 37 CFR 1.47(a)," filed February 6, 2006, which has been treated as a petition under 37 CFR 1.183.¹

The petition is **granted**.

Petitioner has shown that inventor Justine Smith cannot be found or reached to sign the supplemental declaration. The requirement for the inventor to sign the supplemental declaration is hereby suspended or waived in accordance with 37 CFR 1.183.

The additional \$200.00 (total \$400.00, *see* 37 CFR 1.17(f)) for a petition under 37 CFR 1.183 will be charged to deposit account no. 50-0644.

The file is being forwarded to Technology Center 2900 for further examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

¹ Please note, a petition under 37 CFR 1.47 is only appropriate on the submission of the original oath or declaration. "When an inventor who executed the original declaration is refusing or cannot be found to execute a required supplemental declaration, the requirement for that inventor to sign the supplemental declaration may be suspended or waived in accordance with 37 CFR 1.183. All available joint inventor(s) must sign the supplemental declaration on behalf of themselves, if appropriate, and on behalf of the nonsigning inventor. See MPEP § 409.03(a)." See MPEP 603.



DAC
JW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Smith et al. Art Unit: 2911
Serial No.: 29/156,776 Examiner: Freda S. Nunn
Filed: March 8, 2002 Atty. Docket No.: 6337.1033

Title: ENCLOSURE FOR HANDHELD COMPUTER

Petition Pursuant to 37 CFR §1.47(a)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit herewith their petition under 37 CFR §1.47(a) to accept the attached substitute declaration without the signature of inventor Justine Smith as Justine Smith could, despite diligent efforts, not be found or reached. Accordingly, the attached substitute declaration has been duly signed by the other three inventors, but not signed by Justine Smith.

As the attached declaration of Angela Harris of the law firm Vermette & Co. shows, diligent efforts were made to find and reach inventor Justine Smith. These efforts included attempts to reach Justine Smith by phone and mail (prongs 3 and 4 of the attached Harris declaration) at her last known address:

107-1080 Gilford Street
Vancouver, British Columbia
Canada V6G 2P4

(Please compare address of declaration signed by Justine Smith on April 8, 2002, which is part of the PTO file of the present application)

04/07/2006 CKHLOK 00000004 500644 29156776
01 FC:1462 200.00 DA 200.00 OP

02/07/2006 HGUERAI 00000037 29156776 200.00 OP
01 FC:1463
Adjustment date: 04/07/2006 CKHLOK
02/07/2006 HGUERAI 00000037 29156776 -200.00 OP
01 FC:1463

Serial No.: 29/156,776
Page 2

The efforts further included attempts to ascertain Justine Smith's location by an internet search, by checking the telephone directory and performing a reverse address look-up for her above last known address (prongs 5 to 7 of the attached Harris declaration).

Applicants believe that the grant of the instant petition is necessary to delete the priority claim to prior Canadian application 2001-2142. To this effect, applicants also submit herewith an application data sheet (ADS) showing the priority information correctly.

Applicants respectfully request that the subject petition be granted.

Enclosed is a check in the amount of \$200.00 for the fee according to Rule 37 CFR §1.17(g). It is believed that no other fee is due at this time. If that determination should be incorrect, then please debit deposit account no. 50-0644 and notify the undersigned.

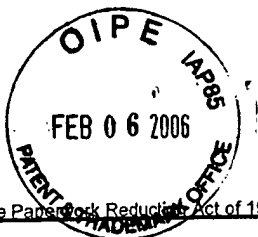
Respectfully submitted,

By Joyce V. Natzmer
Joyce von Natzmer
Registration No. 48,120
Hall, Vande Sande & Pequignot LLP
10220 River Road
Suite 200
Potomac, MD 20854
Telephone: (301) 657-1282

February 3, 2006

I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 2/3/06

Joyce V. Natzmer
Joyce von Natzmer, Reg. 48,120



IPW

PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM <small>(to be used for all correspondence after initial filing)</small>	Application Number	29/156,776
	Filing Date	March 8, 2002
	First Named Inventor	Justine Smith
	Art Unit	2911
	Examiner Name	Freda S. Nunn
Total Number of Pages in This Submission	21	Attorney Docket Number 6337.1033

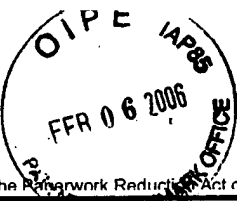
ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	Pet. Pursuant to 37CFR§1.47(a)
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	Sub. Declaration
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	Dec. of Angela Harris
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	<input type="checkbox"/> Landscape Table on CD	Appl. Data Sheet
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	Remarks	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm Name	Hall, Vande Sande & Pequignot		
Signature	<i>Joyce v. Wikum</i>		
Printed name	Joyce von Natzmer, Esq.		
Date	2/13/06	Reg. No.	48,120

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:			
Signature	<i>Joyce v. Wikum</i>		
Typed or printed name	Joyce von Natzmer, Esq.	Date	2/13/06

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). <h1 style="margin: 0;">FEE TRANSMITTAL</h1> <h2 style="margin: 0;">For FY 2005</h2>		Complete if Known	
		Application Number	29/156,776
		Filing Date	3/8/02
		First Named Inventor	Justine Smith
		Examiner Name	Freda S. Nunn
		Art Unit	2911
		Attorney Docket No.	6337.1033
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT	(\$)	200.00	

METHOD OF PAYMENT (check all that apply)

Check
 Credit Card
 Money Order
 None
 Other (please identify): _____

Deposit Account
 Deposit Account Number: 50-644
 Deposit Account Name: Hall, Vande Sande & Pequignot

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below
 Charge fee(s) indicated below, except for the filing fee

Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17
 Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**
 - 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**
 - 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____ / 50 = _____ (round up to a whole number)	x _____ = _____	_____

4. OTHER FEE(S)

Description	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	_____
Other (e.g., late filing surcharge): Fee under 37 CFR §1.17(g)	200.00

SUBMITTED BY			
Signature	<i>Joyce von Natzmer</i>	Registration No. (Attorney/Agent)	48,120
Name (Print/Type)	Joyce von Natzmer, Esq.	Telephone	(301) 983-2500
		Date	2/3/06

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Smith et al.

Art Unit: 2911

Serial No.: 29/156,776

Examiner: Freda S. Nunn

Filed: March 8, 2002

Atty. Docket No.: 6337.1033

Title: **ENCLOSURE FOR HANDHELD COMPUTER**

RESPONSE

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 2/3/06

Joyce v. Wikman
Joyce von Natzmer, Reg. 48,120

Sir:

In response to the Office Action of November 3, 2005, applicants submit herewith the following response.

Remarks begin on page 2 of this paper.

A Petition Pursuant to 37 CFR §1.47(a) including a substitute Inventors' declaration, a declaration of Angela Harris and an application data sheet (ADS) follow page 3 of this paper.

Remarks

On page 2, the Office rejected the claim under 35 USC §102(b) as clearly anticipated by applicants' Canadian document (now Reg. No. 97418) because the invention was patented or described in a printed publication in this or a foreign country, or in public use or on sale in this country more than one year prior to the application for patent in the United States.

Applicants respectfully submit that their Canadian industrial design application, now Reg. No. 97418, was filed on September 4, 2001. The present U.S. application was filed in the U.S. 6 months and four days thereafter, that is, on March 8, 2002.

The Certificate of Registration for the above Canadian industrial design application shows that the design was registered in Canada on November 19, 2002, that is, more than eight months after the instant U.S. application was filed. Canadian industrial design applications publish at registration. Accordingly, the invention was not patented or described in a printed publication, here CA Reg. No. 97418, in this or a foreign country more than one year prior to the application for patent in the United States.

On information and belief, the invention was also not in public use or sale in this country more than one year prior to the application for patent in the United States.

Applicants submit herewith a substitute inventors' declaration signed by three of the four inventors, clarifying that no priority is claimed to prior Canadian design patent application 2001-2142 as well as correcting the filing date of Canadian design patent application 2001-2142 to September 4, 2001.

As inventor Justine Smith could not be located to sign this substitute inventors' declaration, applicants also submit herewith a petition pursuant to 37 CFR §1.47(a).

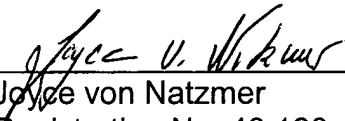
Serial No.: 29/156,776
Page 3

In view of the above and attached, applicants respectfully submit that this application should now be in condition for allowance.

No fee is believed to be due in connection with this response. However, the Commissioner is authorized to charge any fee deficiency or credit any overpayment to Deposit Account No. 50-0644.

Respectfully submitted,

By



Joyce von Natzmer

Registration No. 48,120

Hall, Vande Sande & Pequignot LLP

10220 River Road

Suite 200

Potomac, MD 20854

Telephone: (301) 657-1282

February 3, 2006



DAC
THW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Smith et al.

Art Unit: 2911

Serial No.: 29/156,776

Examiner: Freda S. Nunn

Filed: March 8, 2002

Atty. Docket No.: 6337.1033

Title: **ENCLOSURE FOR HANDHELD COMPUTER**

Petition Pursuant to 37 CFR §1.47(a)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants submit herewith their petition under 37 CFR §1.47(a) to accept the attached substitute declaration without the signature of inventor Justine Smith as Justine Smith could, despite diligent efforts, not be found or reached. Accordingly, the attached substitute declaration has been duly signed by the other three inventors, but not signed by Justine Smith.

As the attached declaration of Angela Harris of the law firm Vermette & Co. shows, diligent efforts were made to find and reach inventor Justine Smith. These efforts included attempts to reach Justine Smith by phone and mail (prongs 3 and 4 of the attached Harris declaration) at her last known address:

**107-1080 Gilford Street
Vancouver, British Columbia
Canada V6G 2P4**

(Please compare address of declaration signed by Justine Smith on April 8, 2002, which is part of the PTO file of the present application)

02/07/2006 16:05:41 00000037 29156776

200.00 0P
01 FC:1463

The efforts further included attempts to ascertain Justine Smith's location by an internet search, by checking the telephone directory and performing a reverse address look-up for her above last known address (prongs 5 to 7 of the attached Harris declaration).

Applicants believe that the grant of the instant petition is necessary to delete the priority claim to prior Canadian application 2001-2142. To this effect, applicants also submit herewith an application data sheet (ADS) showing the priority information correctly.

Applicants respectfully request that the subject petition be granted.

Enclosed is a check in the amount of \$200.00 for the fee according to Rule 37 CFR §1.17(g). It is believed that no other fee is due at this time. If that determination should be incorrect, then please debit deposit account no. 50-0644 and notify the undersigned.

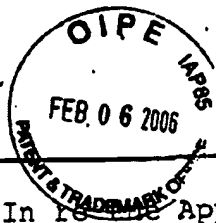
Respectfully submitted,

By Joyce V. Natzmer
Joyce von Natzmer
Registration No. 48,120
Hall, Vande Sande & Pequignot LLP
10220 River Road
Suite 200
Potomac, MD 20854
Telephone: (301) 657-1282

February 3, 2006

I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 2/3/06

Joyce V. Natzmer
Joyce von Natzmer, Reg. 48,120



IN THE UNITED STATES PATENT OFFICE

In re the Application of:)
Justine Smith et al.)
Appln. No.: 29/156,776) Examiner: Freda S. Nunn
Filed: March 8, 2002) Art Unit: 2911
TITLE: ENCLOSURE FOR A HANDHELD) Atty. Docket: 6337.1033
COMPUTER)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF ANGELA HARRIS

I, ANGELA HARRIS, paralegal of the City of Vancouver, British Columbia, Canada, hereby declare as follows:

- 1) I am employed by the firm Vermette & Co., attorneys for Applicant, Intrinsyc Software, Inc., and therefore have personal knowledge of the matters described below.
- 2) According to Vermette & Co.'s files, the last known address of the inventor Justine Smith is 107 - 1080 Gilford Street, Vancouver, British Columbia, Canada, V6G 2P4.
- 3) I sent a letter to Justine Smith at her last known address on November 1, 2005. To date, no response has been received.

- 4) The last known phone number for Justine Smith is (604) 736 - 3358. On January 26, 2006, I attempted to call Justine Smith at her last known phone number. A man answered the phone and said that no one by the name of Justine Smith lived there.
- 5) I performed an internet search for Justine Smith in Vancouver, British Columbia, but I did not come up with a match.
- 6) I searched the Vancouver phone book and found a J. Smith at 4 - 778 Gilford Street, Vancouver, British Columbia, having the following phone number: (604) 682 - 3334. On January 27, 2006, I phoned the number and left a message. A woman returned my call and informed me that there was no one by the name of Justine Smith at that address.
- 7) I performed a reverse address look-up on the internet for Justine Smith's last know address. There was no match.
- 8) I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful

false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Dated: February 1/06

By: Angela Harris
Angela Harris
Paralegal