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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.

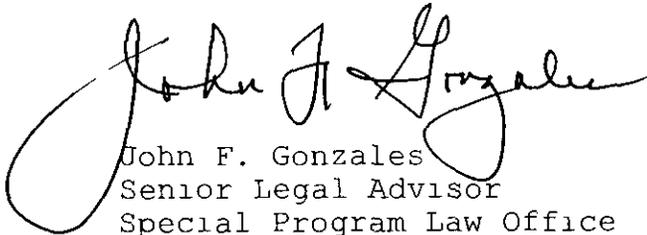
In support, the petition is accompanied by a copy of an Express Mail log maintained by the petitioner showing an entry made on May 16, 1996, at 11:30 a.m. by Carol D. Cohn indicating that a patent application identified by attorney docket No. D-2963 and Express Mail label No. EM393616294US was deposited 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.

John F. Gonzales
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JFG