Ms. Georgette C. Sotos, President
Mount Vernon Business Systems Inc.
3105 Wessynton Way
Alexandria, VA 22309

Re: Petition to Revive
        Application Serial No. 74/606933
        Applicant: Mount Vernon Business Systems Inc.
        For: SNORALYZER

Dear Ms. Sotos:

This will acknowledge receipt of the petition to revive the above-identified application, filed February 7, 1997.

Decision: Petition to Revive is hereby DENIED.

The application was abandoned for having failed to file a Statement of Use within the statutory period. Trademark Rule 2.66 provides that an application abandoned for failure to respond to an Office Action may be revived as a pending application if a showing is made that the delay was unavoidable. However, lack of knowledge or misunderstanding of the Trademark Rules of Practice does not constitute unavoidable delay. *Vincent v. Mossinghoff,* 230 USPQ 621 (D.D.C. 1985), *Potter v. Dann,* 201 USPQ 574 (D.D.C. 1978).

A Notice of Allowance was issued for the subject application on October 31, 1995. On March 21, 1996, Petitioner filed its first Request for Extension of Time to File a Statement of Use. The extension request was approved, affording Petitioner the opportunity to file a Statement of Use within twelve months from the mailing date of the Notice of Allowance.

Applicant states that it mischaracterized the Office Action as not requiring a response until twelve months from the date of the extension. However, the Office Action clearly stated that a proper response was due *within twelve months of the mailing date of the Notice of Allowance,* dated October 31, 1995, to avoid abandonment. Applicant's failure to read the Office Action cannot be said to constitute unavoidable delay.

Applicant may wish to consider filing a new application. The Office will not hold the denial of this petition to be prejudicial to the Applicant in the filing of a new application. Currently, the application filing fee is $245.00 per class.

Sincerely,

Janice Long
Staff Attorney
Office of Assistant Commissioner
For Trademarks
(703) 308-8910 ext. 56

JL/dm