

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	Pirim	Docket No.:	8042-2-1
Application No.:	11/676,926	Examiner:	Seth MANAV
Patent No.:	7,650,015	Art Unit:	2624
Filed:	02-20-2007	Confirmation No.:	9051

For: IMAGE PROCESSING METHOD

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

SECOND REQUEST FOR RECONSIDERATION OF PETITION DECISION

Sir:

A Petition to Accept Unintentionally Delayed Priority Claims under 37 C.F.R. §§ 1.55(c) and 1.78(a)(3) was filed on August 20, 2010. A decision on the Petition was mailed on April 05, 2011.

A request for reconsideration of the petition decision was filed on May 20, 2011. A second decision was mailed on January 5, 2012.

Please consider the decision in view of the following marks.

Domestic Priority Claim 37 CFR 1.78 (a)(3)

The decision states:

A grantable petition under 37 CFR 1.78(a)(3) must be accompanied by the following:

- (1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in 37 CFR 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional.

The decision interprets 1.78(a)(3)'s reference to 1.78(a)(2) as a requirement that "an accompanying amendment to the specification of the application or a supplemental application data sheet" (Decision at p. 2) is needed. More specifically, the decision cites to 1.78(a)(2)(iii), which states, "[i]f the later-filed application is a non-provisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title."

Applicant submits a Supplemental Application Data Sheet reflecting the priority correction.

37 C.F.R. §1.55(c)

The decision states:

A grantable petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for foreign priority requires the following:

- (1) the claim under 35 U.S.C. 119(a)-(d) or 365(a) and this section to the prior foreign application, unless previously submitted;
- (2) the surcharge as set forth in 37 CFR 1.17(t);
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

The decision concludes that the petition does not comply with 1.55(c)(1), alleging MPEP §201.13 requires that "a claim for foreign priority must be contained in either an oath or declaration ... or an application data sheet."

(Decision at p. 3). MPEP §201.13 actually states, "[a] priority claim need not be

in any special form and may be a statement signed by a registered attorney or agent. A priority claim can be made on filing: (A) by including a copy of an unexecuted or executed oath or declaration specifying a foreign priority claim (see 37 CFR 1.63(c)(2)); or (B) by submitting an application data sheet specifying a foreign priority claim (see 37 CFR 1.76)." The entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional.

Applicant submits a Supplemental Application Data Sheet reflecting the priority correction.

No additional surcharge should be owed, but the Director is hereby authorized to charge any deficiency in fees filed, asserted to be filed, or which should have been filed herewith (or with any paper hereafter filed in this application by this firm) to our Deposit Account 14-1437. Please credit any excess fees to such account.

Respectfully submitted,
NOVAK DRUCE + QUIGG, LLP

/Michael P. Byrne/

Date: July 15, 2014

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