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Novak Druce & Quigg LLP
525 Okeechobee Blvd
Suite 1500
West Palm Beach FL 33401

In re Application of: PIRIM, Patrick.
U.S. Application No.: 11/676,926
U.S. Patent No.: 7,650,015
Filing Date: February 20, 2007
Attorney's Docket No.: 8042-2-1
For: IMAGE PROCESSING METHOD

DECISION ON
PETITIONS UNDER
37 CFR 1.78(a)(3)
AND 1.55(c)

This decision is issued in response to the "THIRD REQUEST FOR RECONSIDERATION OF PETITION DECISION" filed on November 24, 2014, which requests reconsideration under 37 CFR §§ 1.78(a)(3) and 1.55(c). For the reasons set forth below, the petitions are **DISMISSED**.

37 CFR 1.78(a)(3)

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the corrected benefit claim under 35 U.S.C. 120 is submitted after the expiration of the time period specified in 37 CFR 1.78(a)(2)(ii). Under the circumstances present here, the petition is properly considered under 37 CFR 1.78(a)(3). See MPEP section 1481.03.

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.

With regard to item (1), the Application Data Sheet filed on November 24, 2014 does not comply with 37 CFR 1.76(c)(2) because it is not entitled "Supplemental Application Data Sheet" and does not identify the information that is being changed, preferably with underlining for insertions and strike-through or brackets for text removed. Applicants are advised to provide a formally acceptable ADS.

With regard to item (2), the surcharge set forth in 37 CFR 1.17(t) has been submitted.

With regard to item (3), the statement of unintentional delay contained in the petition differs slightly from the language contained in 37 CFR 1.78(a)(3)(iii) and is hereby construed as a statement that the entire delay between the date the claim was due under 1.78(a)(2)(ii) and the date the claim was filed was unintentional. If this interpretation is incorrect, applicant is required to immediately notify the Office. As construed, the provided statement of unintentional delay is acceptable.

For the reasons above, the petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

37 CFR 1.55(c)

The above-captioned U.S. patent issued from an application filed after November 29, 2000, and the foreign priority claim under 35 U.S.C. 119(a)-(d) or 365(a) directed to French application number FR 9609420 was not submitted prior to the expiration of the time period specified in 37 CFR 1.55(a)(1). Accordingly, this is an appropriate petition under the provisions of 37 CFR 1.55(c).

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.

With regard to requirement (1), petitioner has submitted an ADS which sets forth the foreign priority claim. However, as described above, the Application Data Sheet filed on November 24, 2014 does not comply with 37 CFR 1.76(c)(2) because it is not entitled "Supplemental Application Data Sheet" and does not identify the information that is being changed, preferably with underlining for insertions and strike-through or brackets for text removed. Applicants are advised to provide a formally acceptable ADS

With regard to requirement (2), the surcharge has been paid.

With regard to requirement (3), petitioner has provided a statement of unintentional delay with respect to 37 CFR 1.55(a)(1).

For these reasons, the petition under 37 CFR 1.55(c) is **DISMISSED**.

DECISION

For the reasons set forth above, the petitions under 37 CFR 1.78(a)(3) and 1.55(c) are **DISMISSED**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
International Patent Legal Administration
Telephone: (571) 272-3283