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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 "FOURTH REQUEST FOR RECONSIDERATION OF PETITION DECISION" filed on March 17, 2015, which requests reconsideration under 37 CFR §§ 1.78(a)(3) and 1.55(c). For the reasons set forth below, the petitions are **GRANTED**.

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 (i), a proper reference to the prior-filed application(s) has been included in an application data sheet or in an amendment to the first sentence of the specification as required by 37 CFR 1.78(a)(2)(iii).

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

With regard to item (iii), 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 **GRANTED**.

Applicant is advised that the inclusion of a prior-filed application on any filing receipt should not be construed as meaning that the application is necessarily entitled to the benefit of the prior-filed application. In order for an application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78 must be met.

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.

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 **GRANTED**.

DECISION

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

This patented application is being returned to the files repository. It is noted that a Certificate of Correction was issued on 10 May 2011.

/George Dombroske/
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ATTACHMENT: Corrected Filing Receipt