



Paper No. 14

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OFFICE OF PETITIONS

In re Application of :
Charles Lamont Whitham :
Application No. 09/900,161 :
Filed: July 9, 2001 :
Attorney Docket No. CLW002 :

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed July 24, 2002, requesting refund of the \$300.00 Publication fee.

Petitioner asserts: "Since this application has been passed to issue approximately one year after its filing date and should issue well before the eighteen months normally required for publication of applications under 37 CFR 1.211(a), [petitioner] respectfully requests refund of the \$300.00 Publication Fee as provided under 37 CFR 1.211(e)."

37 CFR 1.211(a)(3) sets forth:

"Each U.S. national application for patent filed in the Office under 35 USC 111(a) and each international application in compliance with 35 USC 371 will be published promptly after the expiration of a period of eighteen months from the earliest filing date for which a benefit is sought under 35, United States Code, unless:

(3) The application has issued as a patent in sufficient time to be removed from the publication process."

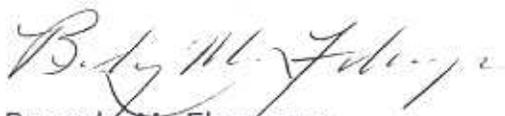
37 CFR 1.211(e) sets forth:

"The publication fee set forth in 1.18(d) must be paid in each application published under this section before the patent will be

granted. If an application is subject to publication under this section, the sum specified in the notice of allowance under 1.311 will also include the publication fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. This three month period is not extendable. *If the application is not published under this section, the publication fee (if paid) will be refunded.*" (Emphasis added)

The projected 18-month publication date assigned to the above-identified application is January 9, 2003. An issue date has not been assigned by the publications branch as of this time. It takes approximately 12 weeks for the patent application to issue as a patent after receipt of the application by the publications branch. As such, the above-identified application will issue as a patent after the projected 18-month publication date of January 9, 2003 and the publication fee is therefore required. Accordingly, the petition is denied.

Telephone inquiries concerning this matter may be directed to Petition Attorney Edward Tannouse at (703) 306-9200.



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