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Paper No. 15

THOMAS W. BULLOCK, JR.
3321 PINES ROAD
SHREVEPORT LA 71119

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MAY 05 2005

OFFICE OF PETITIONS

In re Application of
Thomas W. Bullock
Application No. 06/700,083
Patent No. 4,673,102
Filed: May 2, 1985
Issue Date: June 16, 1987
Title: PROTECTIVE COATINGS AND
METHOD FOR PROTECTING TANK CAR
CONTAINERS

DECISION ON RENEWED PETITION
UNDER 37 C.F.R. §1.378(E)

This is a decision on the petition filed October 18, 2004, under 37 C.F.R. §1.378(e), requesting reconsideration of a prior decision pursuant to 37 C.F.R. §1.378(b)¹, which refused to accept the delayed payment of two maintenance fees for the above-referenced patent.

The patent issued on June 16, 1987. The grace period for paying the 7½ year maintenance fee provided in 37 CFR 1.362(e) expired at midnight on June 16, 1995, with no payment received. Accordingly, the patent expired at midnight on June 16, 1995.

On June 15, 2004, Petitioner filed the original petition under 37 C.F.R. §1.378(b), along with the 7½ and 11½ year maintenance fees and the surcharge, which was dismissed via the mailing of a decision on July 9, 2004 for failure to provide an adequate showing that the delay was unavoidable, as required under 37 C.F.R. §1.378(b)(3).

¹ Any petition to accept an unavoidably delayed payment of a maintenance fee filed under 37 C.F.R. §1.378(b) must include:

- (1) The required maintenance fee set forth in 37 C.F.R. §1.20 (e) through (g);
- (2) The surcharge set forth in 37 C.F.R. §1.20(i)(1), and;
- (3) A showing that the delay was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that the petition was filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The showing must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

With the instant petition pursuant to 37 C.F.R. §1.378(e), Petitioner has again failed to meet the requirement under 37 C.F.R. §1.378(b)(3), as indicated above. A discussion follows.

The standard

35 U.S.C. §41(c)(1) states:

The Director may accept the payment of any maintenance fee... after the six-month grace period if the delay² is shown to the satisfaction of the Director to have been unavoidable.

§1.378(b)(3) is at issue in this case. Acceptance of a late maintenance fee under the unavoidable delay standard is considered under a very stringent standard. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business³.

In addition, decisions are made on a "case-by-case basis, taking all the facts and circumstances into account."⁴ Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable."⁵

An adequate showing that the delay in payment of the maintenance fee at issue was "unavoidable" within the meaning of 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3) requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Where the record fails to disclose that the patentee took reasonable steps, or discloses that the patentee took no steps, to ensure timely payment of the maintenance fee, 35 U.S.C. 41(c) and 37 C.F.R. §1.378(b)(3) preclude acceptance of the delayed payment of the maintenance fee under 37 CFR 1.378(b).

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay.

² This delay includes the entire period between the due date for the fee and the filing of a grantable petition pursuant to 37 C.F.R. §1.378(b).

³ *In re Mattullath*, 38 App. D.C. 497, 514-15 (1912)(quoting *Ex parte Pratt*, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also *Winkler v. Ladd*, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), *aff'd*, 143 U.S.P.Q. 172 (D.C. Cir. 1963); *Ex parte Henrich*, 1913 Dec. Comm'r Pat. 139, 141 (1913).

⁴ *Smith v. Mossinghoff*, 671 F.2d at 538, 213 U.S.P.Q. at 982.

⁵ *Haines*, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

Such a showing should identify the specific error⁶, the individual who made the error, and the business routine in place for performing the action which resulted in the error. The showing must establish that the individual who erred was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. The showing should include information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

- (1) the error was the cause of the delay at issue,
- (2) a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, and;
- (3) the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.

See MPEP 711.03(c)(III)(C)(2).

An adequate showing should include (when relevant):

- (1) statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them;
- (2) a thorough explanation of the docketing and call-up system in use;
- (3) identification of the type of records kept;
- (4) identification of the persons responsible for the maintenance of the system;
- (5) copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing;
- (6) include an indication as to why the system failed in this instance, and;
- (7) information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

⁶ Petitioner must identify the error which caused the delay. If the specific error cannot be identified, the petitioner must identify any and all possible causes and prove that any of them, if they were the true cause, constitute unavoidable delay. A full and complete discussion for each possible error must be presented. A full and complete discussion of each possible error must be presented. Petitioner is reminded that petitioner has the burden of proof.

The portions of the MPEP relevant to the facts as presented

2504 Patents Subject to Maintenance Fees

37 CFR 1.362. Time for payment of maintenance fees.

- (a) Maintenance fees as set forth in §§ 1.20(e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.
- (b) Maintenance fees are not required for any plant patents or for any design patents. Maintenance fees are not required for a reissue patent if the patent being reissued did not require maintenance fees.
- (c) The application filing dates for purposes of payment of maintenance fees are as follows:
 - (1) For an application not claiming benefit of an earlier application, the actual United States filing date of the application.
 - (2) For an application claiming benefit of an earlier foreign application under 35 U.S.C. 119, the United States filing date of the application.
 - (3) For a continuing (continuation, division, continuation-in-part) application claiming the benefit of a prior patent application under 35 U.S.C. 120, the actual United States filing date of the continuing application.
 - (4) For a reissue application, including a continuing reissue application claiming the benefit of a reissue application under 35 U.S.C. 120, the United States filing date of the original non-reissue application on which the patent reissued is based.
 - (5) For an international application which has entered the United States as a Designated Office under 35 U.S.C. 371, the international filing date granted under Article 11(1) of the Patent Cooperation Treaty which is considered to be the United States filing date under 35 U.S.C. 363.
- (d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:
 - (1) 3 years through 3 years and 6 months after grant for the first maintenance fee,
 - (2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and
 - (3) 11 years through 11 years and 6 months after grant for the third maintenance fee.
- (e) Maintenance fees may be paid with the surcharge set forth in § 1.20(h) during the respective grace periods after:
 - (1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.
 - (2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and
 - (3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.
- (f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.
- (g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.
- (h) The periods specified in §§ 1.362 (d) and (e) with respect to a reissue application, including a continuing reissue application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based.

Maintenance fees are required to be paid on all patents based on applications filed on or after December 12, 1980, except for plant patents and design patents. Furthermore, maintenance fees are not required for a reissue patent if the patent being reissued did not require maintenance fees. Application filing dates for purposes of determining whether a patent is subject to payment of maintenance fees are as follows:

- (A) For an application not claiming benefit of an earlier application, the actual United States filing date of the

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- application.
- (B) For an application claiming benefit of an earlier foreign application under 35 U.S.C. 119(a)-(d), the actual United States filing date of the application.
 - (C) For a continuing (continuation, division, continuation-in-part) application claiming the benefit of a prior patent application under 35 U.S.C. 120, the actual United States filing date of the continuing application.
 - (D) For a reissue application, including a continuing reissue application claiming the benefit of a reissue application under 35 U.S.C. 120, the United States filing date of the original nonreissue application on which the patent reissued is based.
 - (E) For an international application that has entered the United States as a Designated Office under 35 U.S.C. 371, the international filing date granted under Article 11(1) of the Patent Cooperation Treaty which is considered to be the United States filing date under 35 U.S.C. 363.

2506 Times for Submitting Maintenance Fee Payments

37 CFR 1.362(d) sets forth the time periods when the maintenance fees for a utility patent can be paid without surcharge. Those periods, referred to generally as the "window period," are the 6-month periods preceding each due date. The "due dates" are defined in 35 U.S.C. 41(b). The window periods are (1) 3 years to 3 1/2 years after the date of issue for the first maintenance fee payment, (2) 7 years to 7 1/2 years after the date of issue for the second maintenance fee payment, and (3) 11 years to 11 1/2 years after the date of issue for the third and final maintenance fee payment. A maintenance fee paid on the last day of a window period can be paid without surcharge. The last day of a window period is the same day of the month the patent was granted 3 years and 6 months, 7 years and 6 months, or 11 years and 6 months after grant of the patent. 37 CFR 1.362(e) sets forth the time periods when the maintenance fees for a utility patent can be paid with surcharge. Those periods, referred to generally as the "grace period," are the 6-month periods immediately following each due date. The grace periods are (1) 3 1/2 years and through the day of the 4th anniversary of the grant of the patent, (2) 7 1/2 years and through the day of the 8th anniversary of the grant of the patent and, (3) 11 1/2 years and through the day of the 12th anniversary of the grant of the patent. A maintenance fee may be paid with the surcharge on the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant to prevent the patent from expiring. Maintenance fees for a reissue patent are due based upon the schedule established for the original utility patent. The filing of a request for ex parte or inter partes reexamination and/or the publication of a reexamination certificate does not alter the schedule of maintenance fee payments of the original patent. If the day for paying a maintenance fee falls on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the maintenance fee may be paid on the next succeeding day that is not a Saturday, Sunday, or Federal holiday. For example, if the window period for paying a maintenance fee without a surcharge ended on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the maintenance fee can be paid without surcharge on the next succeeding day that is not a Saturday, Sunday, or a Federal holiday within the District of Columbia. Likewise, if the grace period for paying a maintenance fee with a surcharge ended on a Saturday, Sunday, or a Federal holiday within the District of Columbia, the maintenance fee can be paid with surcharge on the next succeeding day that is not a Saturday, Sunday, or a Federal holiday within the District of Columbia. In the latter situation, the failure to pay the maintenance fee and surcharge on the next succeeding day that is not a Saturday, Sunday, or a Federal holiday within the District of Columbia will result in the patent expiring on a date (4, 8, or 12 years after the date of grant) earlier than the last date on which the maintenance fee and surcharge could be paid. This situation results from the provisions of 35 U.S.C. 21, but those provisions do not extend the expiration date of the patent if the maintenance fee and any required surcharge are not paid when required. For example, if the grace period for paying a maintenance fee with a surcharge ended on a Saturday, the maintenance fee and surcharge could be paid on the next succeeding business day, e.g., Monday, but the patent will have expired at midnight on Saturday if the maintenance fee and surcharge were not paid on the following Monday. Therefore, if the maintenance fee and any applicable surcharge are not paid, the patent will expire as of the end of the grace period as listed above. A patent that expires for failure of payment will expire on the anniversary date the patent was granted in the 4th, 8th, or 12th year after the grant.

Application of the standard to the current facts and circumstances

In the original petition under 37 C.F.R. §1.378(b), submitted June 15, 2004, Petitioner set forth that he was unaware that he was responsible for tracking the due dates, and that he received no notice that maintenance fees would be due.

The decision set forth:

First, the lack of knowledge of the requirement to pay a maintenance fee cannot be used to establish unavoidable delay, as it is solely the responsibility of the patentee to assure that the maintenance fees are submitted in a timely manner.

Secondly, the Letters Patent itself should have provided notice to the Petitioner that maintenance fees were due.

Third, while Petitioner has set forth that he did not receive any reminders from the Office that maintenance fees were due, these notices are mailed as a courtesy, and the lack of receipt of a notice does not relieve the patentee from his responsibility of ensuring that the maintenance fee is timely submitted.

Finally, the establishment of unavoidable delay requires a showing of the steps taken to ensure the timely payment of the maintenance fees for this patent. Since it is clear that no steps were in place for ensuring that the maintenance fee would be submitted in a timely manner, the granting of this petition is precluded.

With the renewed petition under 37 C.F.R. §1.378(e), Petitioner has set forth that since the mailing of his original petition, a document was discovered which purportedly establishes that Petitioner's counsel entered the above-identified patent into their docketing system so that the maintenance fees could be tracked.

As set forth in the previous decision, Petitioner should be made aware that the standard associated with the filing of a petition under the unavoidable standard is extremely difficult to meet.

Petitioner's explanation of the delay has been considered, and it has been determined that it fails to meet the standard for acceptance of a late payment of the maintenance fee and surcharge, as set by 35 U.S.C. 41(c) and 37 CFR 1.378(b)(3). The period for paying the 7½ year maintenance fee without the surcharge extended from June 16, 1994 to December 16, 1994, and for paying with the surcharge from December 17, 1994 and June 16, 1995. Thus, the delay in paying the 7½ year maintenance fee extended from June 16, 1995 at midnight to the filing of the original petition on June 15, 2004.

With this renewed petition, Petitioner has set forth the law firm of Haynes and Boone (hereinafter referred to as "law firm") was responsible for tracking the maintenance fee due dates, and for unknown reasons, the system failed to apprise both them and him that the 7½ year maintenance fee was due. To evince this claim, Petitioner has submitted an invoice⁷ from the law firm to Depsco, Inc. (hereinafter referred to as "Depsco")⁸ On the invoice appears the entries:

⁷ Exhibit 7, dated February 27, 1990.

⁸ Depsco is the licensee of this patent. See Affidavit at 1.

10/02/89 – Telephone conference with Mr. Gibson.
1/09/90 – Attend to docketing of maintenance fees for U.S. Patent No. 4,673,102.
Fees: \$53.00.

According to a declaration of facts from Mr. Brown⁹, an attorney from the law firm, Petitioner was never a client of the firm. The firm represented Depsco in regards to their licensing and enforcement of the patent. The 3½ year maintenance fee was submitted not by the law firm, but rather by the Petitioner.

On January 4, 1991, Mr. Brown sent a letter to Mr. Gibson^{10, 11}, explaining that the patent had likely gone abandoned, and Mr. Brown assumed that the maintenance fee had not been submitted.

On May 11, 1992, Mr. Gibson sent a letter to the Office¹² explaining that the 3½ year maintenance fee was not submitted in a timely manner due to a lack of communication between the licensee and the licensor – each believed that the other would submit the maintenance fee.

Mr. Brown has also included a copy of a letter dated May 14, 1992¹³ from the Petitioner to the Office, in which he states:

It can be noted after the fact that apparently Mr. Gibson did not notify Mr. Brown of the intention to pay the late fee and maintenance fees on the '102 patent before June 16, 1991 and request that this be put on Mr. Brown's docket. Therefore, Mr. Brown did not notify Mr. Gibson of this pending date.

"...assuming Mr. Gibson and Mr. Brown were tracking the due dates for the late payment [of the 3½ year maintenance fee]...was bad judgment on my part..."

Letter denoted as Exhibit F, attached to Mr. Brown's declaration of facts. Emphasis added.

Finally, in a letter submitted by Mr. Brown dated January 8, 1991¹⁴, the handwritten note "please file and complete all docket entries" appears. The same characterizes this as an instruction to the docketing personnel to remove all entries in their docketing system to track the three maintenance fees.

Initially, Petitioner asserts that the law firm was responsible for docketing the 2nd and 3rd maintenance fees and that "something went wrong with Haynes and Boone's docketing system." Petition contends that the maintenance fees were docketed but were subsequently deleted without consulting its clients, i.e., Mr. Gibson and Petitioner.

Assuming, *arguendo*, this assertion is correct, Petitioner still has not provided the necessary showing to establish that the delay was unavoidable within the meaning of 35 USC 41(c) and 37

9 Exhibit 10.

10 *Id.*

11 Mr. Gibson in an employee of the licensee Depsco.

12 Exhibit 10.

13 *Id.*

14 *Id.*

CFR 1.378(b). A patent holder's reliance upon an attorney does not provide him with an absolute defense, but rather shifts the focus to whether the attorney acted reasonably and prudently¹⁵. It is well established that a patent holder is bound by any errors that may have been committed by his attorney¹⁶. Petitioner has not shown that the alleged failure in the law firm's docketing system could not have been avoided with the exercise of due care. Petitioner does not allege or show that the alleged docketing error was caused by an employee of the firm in the performance of a clerical function¹⁷. Rather, the attorney instructed the law firm's docketing personnel to "remove or close all docket entries in Haynes and Boone's docketing system relating to first, second and third maintenance fees" based on Mr. Gibson's letter dated 8 January 1991. See Exhibit 24, Declaration of Randall C. Brown, at paragraph 11. Whether such action by the attorney constituted a breach of the fiduciary duty of care, as appears to be alleged by Petitioner, is of no moment to the issue of whether the entire delay was unavoidable¹⁸.

In addition, a reasonably prudent person would not have relied on the law firm to track the 7½ year maintenance fee payment given:

- 1) the patent had previously expired for failure to submit the 3½ year maintenance fee
- 2) the affidavit by Mr. Brown in connection with the original petition under 37 C.F.R. §1.378(b) filed on May 26, 1992 states that Petitioner has never been a client of the law firm¹⁹
- 3) the affidavit of Mr. Brown states that the law firm was not asked or authorized by Depsco or the Petitioner to docket the maintenance fee²⁰
- 4) neither Depsco nor the Petitioner gave any instruction to the law firm to docket the maintenance fee,²¹ apparently out of confusion as to who was to be responsible for paying the maintenance fee.

15 California Medical Products v. Technol Med. Prod., 921 F. Supp. 1219, 1259 (D. Del. 1995).

16 Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981)(citing Link v. Wabash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734 (1962)).

17 See MPEP 711.03(c). To establish clerical error, Petitioner would have to establish that the error was the cause of the delay at issue, show that a business routine was in place for performing the clerical function that could reasonably be relied upon to avoid errors in its performance, and that the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. Statements must be provided by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them; a thorough explanation of the docketing and call-up system in use must be provided; both the type of records kept and the persons responsible for the maintenance of the system must be identified; copies of mail ledger, docket sheets, filewrappers and such other records must be provided, an indication must be submitted as to why the system failed in this instance, and; information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks must be provided to the Office.

18 See Haines v. Quigg, 5 USPQ2d 1130 (N.D. Ind. 1987)(the court, in affirming an Office decision denying revival of an application on the basis of unavoidable delay, stated: "If the attorney somehow breached his duty of care to plaintiff, then plaintiff may have certain other remedies available to him against his attorney. He cannot, however, ask the court to overlook [attorney's] action or inaction with regard to the patent application.")

19 Exhibit 8 at paragraph 5.

20 Brown declaration at paragraph 11.

21 Declaration by Messers. Gibson and Bullock, Exhibit 8.

Moreover, it is clear that neither the law firm nor Petitioner had steps in place to track the second and third maintenance fees, as required under 37 C.F.R. §1.378(b)(3). The attorney at the law firm instructed the docketing personnel to remove docket entries for the second and third maintenance fees²². Petitioner's lack of awareness as to when these fees were due is not a basis upon which to find unavoidable delay²³. In any event, it is clear that Petitioner was well aware of the need to both track and submit maintenance fees. Not only does he remember learning of these requirements, but he also filed a previous petition for failing to timely submit the 3½ year maintenance fee. Petitioner cannot file this earlier petition, and later successfully assert that he was unaware of these requirements.

Finally, it is noted that Petitioner's affidavit filed on October 18, 2004 now states in paragraph 7 that in late 1991, in a discussion with Mr. Brown over the expiration of the current patent for failure to submit the 3½ year maintenance fee, Mr. Brown stated "this won't happen again, we have ways of tracking this and I will take care of it." Petitioner states that this quote is "very vivid in my memory" and that Petitioner understood this to mean that the law firm would let him know when any future maintenance fees were due. Petitioner's affidavit is not sufficient to establish that the law firm was responsible for tracking the second and third maintenance fees. Initially, it is observed that the alleged statements occurred nearly 14 years earlier. Moreover, Petitioner made no such assertion when the petition under 37 C.F.R. 1.378 was filed in 1992, and the assertion is not consistent with the evidence then submitted by Petitioner showing that Petitioner was never a client of the law firm and that the law firm was not instructed to docket the maintenance fees. In any event, even *assuming arguendo* the law firm undertook the obligation to track the subsequent maintenance fees for Petitioner, such would not establish unavoidable delay, as Petitioner has presented no evidence to establish that the failure of the law firm to track the maintenance fees and notify Petitioner when they became due was unavoidable.

CONCLUSION

For the reasons set forth above, the request to accept the delayed payment of the maintenance fee is **DENIED**²⁴.

The prior decision which refused to accept, under 37 C.F.R §1.378(b), the delayed payment of a maintenance fee for the above-identified patent, has been reconsidered. For the above stated reasons, the delay in this case cannot be regarded as unavoidable within the meaning of 35 U.S.C. §41(c)(1) and 37 C.F.R. §1.378(b).

Since this patent will not be reinstated, the petitioner is entitled to a refund of both the surcharge and the 7 ½ and 11½ year maintenance fees, but not the \$130 fee associated with the filing of the instant renewed petition under 37 C.F.R. §1.378(e). Both the surcharge and the maintenance fee will be refunded to Petitioner via the mailing of a Treasury Check in due course.

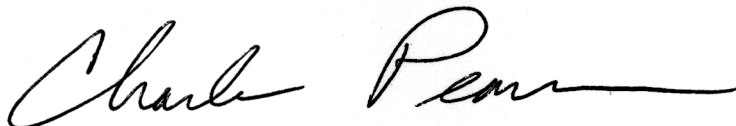
²² Exhibit 24, Brown declaration at 11.

²³ See MPEP 2590.

²⁴ This decision may be regarded as a final agency action within the meaning of 5 U.S.C. §704 for the purposes of seeking judicial review. See MPEP 1002.02.

As stated in 37 C.F.R. §1.378(e), no further reconsideration or review of this matter will be undertaken.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.

A handwritten signature in black ink, appearing to read "Charles Pearson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Charles Pearson
Director
Office of Petitions
United States Patent and Trademark Office