

From: James Longfellow [mailto:jlongfellow@gmail.com]  
Sent: Thursday, May 30, 2013 11:46 AM  
To: AC84.comments  
Subject: Comments regarding Revisions to Patent Term Adjustment, 78 FR 19416 (April 1, 2013)

Dear Mr. Fries:

In the final rule making notice, I would appreciate if the Office would provide clarification on the following issues:

(1) Despite revised Rule 1.705(c), may an applicant properly request PTA reconsideration on issues related to the three-month applicant reply deadline under 35 USC 154(b)(2)(C)(ii) and Rule 1.704(b), other than a request for due care reinstatement per 35 USC 154(b)(3)(C), after the patent issues via an application for patent term adjustment under revised Rule 1.705(b)? Such issues might include: a failure to apply the three-month deadline to a USPTO notice requiring a response; applying the deadline to a USPTO notice which does not require a response; determining the pertinent date of a USPTO notice or action (e.g., period for response was restarted or PAIR data error); determining the pertinent applicant reply and reply date; and accounting for weekends and holidays per *ArQule v. Kappos*, 793 F.Supp.2d 214 (D.D.C. 2011).

(2) Does Rule 1.7 (Times for taking action; Expiration on Saturday, Sunday or Federal holiday) apply to the deadline to request PTA reconsideration under revised Rule 1.705(b)?

(3) Please disregard this comment if the applicability date of revised Rule 1.705 is not changed in the final rule making notice. In the unlikely event the applicability date is changed such that some applications pending on or after January 14, 2013 will still receive an official PTA notification at the time of allowance, please considering setting the deadline to request reconsideration of this initial determination to two months from the patent grant date, extendable by an additional five months, rather than prior to issue fee payment (i.e, set the same reconsideration deadline for both the initial and final PTA notifications). This will allow such pending applications to benefit from a simplified system for seeking PTA reconsideration.

Thank you for your consideration.

Sincerely,

James P. Longfellow  
Reg. No. 37,665