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**UNITED STATES DEPARTMENT OF COMMERCE**  
**Patent and Trademark Office**  
OFFICE OF ASSISTANT COMMISSIONER FOR TRADEMARKS  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

99-20

Re: Trademark Application of :  
Intel Corporation :  
Serial No. 75-097876 :  
Filing Date: March 2, 1996 : On Petition  
For: THE COMPUTER INSIDE :  
Petition Filed: July 10, 1998 :

Intel Corporation has petitioned the Commissioner to reverse the Denial of a Request for Extension of Time to File a Statement of Use in connection with the above-identified application. The petition is denied under 15 U.S.C. §1051(d)(2).

## **FACTS**

A Notice of Allowance issued for the subject application on August 5, 1997. Pursuant to 15 U.S.C. §1051(d), a Statement of Use or an Extension of Time to File a Statement of Use was required to be filed within six months of the mailing date of the Notice of Allowance.

On January 1, 1998, Petitioner filed a Request for Extension of Time to File a Statement of Use. In an Office Action dated June 12, 1998, the Legal Instruments Examiner in the ITU/Divisional Unit denied the extension request because it was not accompanied by the prescribed fee, as required by 15 U.S.C. §1051(d)(2).<sup>1</sup> Petitioner was advised that the application would be abandoned in due course because the period of time within which to file an acceptable extension request or Statement of Use had expired

Counsel for Petitioner explains that the fee for the extension request was omitted due to inadvertence, and that the fee was submitted at a later date, March 17, 1998.

## **DECISION**

15 U.S.C. §1051(d)(2) provides that “any request for an extension under this paragraph shall be accompanied by payment of the prescribed fee.”

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<sup>1</sup> The extension request at first was erroneously approved by the ITU/Divisional Unit, as shown by a Notice of Approval of Extension Request dated March 18, 1998. On May 22, 1998, the Applicant submitted a Statement of Use.

Trademark Rules 2.146(a)(5) and 2.148 permit the Commissioner to waive any provision of the rules, not being a requirement of the statute, in an extraordinary circumstance, when justice requires and no other party is injured. However, the requirement to submit the fee with the extension request is statutory and the Commissioner is without authority to waive it. *In re Stakis plc*, 25 USPQ2d 1529 (Comm'r Pats. 1992).

The fact that the Applicant submitted a filing fee in March 1998 does not alter the result in this instance because the fee was not filed within the statutory six month period for filing a Statement of Use or extension request.

Accordingly, the petition is denied and the application will remain abandoned. A total of \$300 in filing fees, covering the \$100 fee submitted in March 1998, the \$100 fee for a Statement of Use submitted in May 1998, and a \$100 fee for an extension request submitted with the petition, will be refunded in due course.

Robert M. Anderson  
Acting Assistant Commissioner  
for Trademarks

RMA:HES

Date:

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