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INTERNATIONAL PATENT LEGAL ADM.

In re Application of
Michael TASLER
Application No.: 11/078,778
Filing Date: March 1, 2005
Attorney Docket No.: PLG.51819-NYC

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.78(e), filed November 10, 2016, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to one or more prior-filed nonprovisional or international applications. Because the application data sheet adds a foreign priority claim, the petition is also being treated as a petition under 37 CFR 1.55(e) to accept an unintentionally delayed claim under 35 U.S.C. 119(a) through (d) or (f) and/or 35 U.S.C. 365(a) or (b) for the benefit of the prior-filed foreign application.¹

Under 37 CFR 1.78(e), a petition to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of a prior-filed application must be accompanied by:

- (i) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(d)(2) to the prior-filed application, unless previously submitted;
- (ii) the petition fee set forth in 37 CFR 1.17(m); and
- (iii) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(d)(3) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

¹ Additionally, this is a decision on applicant's petition under 37 CFR 1.182 filed November 10, 2016 to expedite the processing of the petition under 37 CFR 1.55/1.78, to accept an unintentionally delayed claim under 35 U.S.C. §119/120 for the benefit of priority to the prior-filed nonprovisional and foreign applications set forth in the supplemental Application Data Sheet (ADS) accompanying the petition under 37 CFR 1.55/1.78. Applicant has provided payment of the required petition fee and requested an expedited processing of the accompanying petition. As such, applicant's petition under 37 CFR 1.182 is **GRANTED**.

Papst Licensing GmbH & Co., KG.
Petitioner: ZTE (USA), Inc.

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(d)(2). See also 37 CFR 1.78(h).

With regard to item (ii), the petition fee set forth in 37 CFR 1.17(m) has been submitted.

With regard to item (iii), the petition contains a proper statement of unintentional delay.

For the reasons above, the petition under 37 CFR 1.78(e) is **GRANTED**.

Petition under 37 CFR 1.55(e)

Under 37 CFR 1.55(e), a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(a) through (d) or (f) and/or 35 U.S.C. 365(a) or (b) for the benefit of a prior-filed foreign application must be accompanied by:

- (i) the claim required by 35 U.S.C. 119 and 37 CFR 1.55(e)(1) to the prior-filed application, unless previously submitted;
- (ii) a certified copy of the foreign application, if required by 37 CFR 1.55(f), unless previously submitted or an exception under 37 CFR 1.55(h), (i), or (j) applies;
- (iii) the petition fee set forth in 37 CFR 1.17(m); and
- (iv) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(d) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay 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 1.55(e)(1). See also 37 CFR 1.78(h).

With regard to item (ii), the certified copy requirement has been satisfied. With regard to item (ii), a certified copy of the foreign application was previously submitted in the application no. 09/331,002. Thus, item (2) is satisfied.

With regard to item (iii), the petition fee set forth in 37 CFR 1.17(m) has been submitted.

With regard to item (iv), a the petition contains a proper statement of unintentional delay.

For the reasons above, the petition under 37 CFR 1.55(e) 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 present 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. 119/120 and 37 CFR 1.55/1.78 must be met.

This matter is being referred to the Office of Publications for appropriate action.

/AnthonySmith/
Anthony Smith
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International Patent Legal Administration
571-272-3298