UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE COMMISSIONER OF PATENTS AND TRADEMARKS

In re )

DECISION ON PETITION FOR EXPEDITED ADJUDICATION

("Petitioner") seeks expedited adjudication of his pending petition for reinstatement, now before the Director of the Office of Enrollment and Discipline ("Director"). The petition is denied.

On March 29, 1989, Petitioner was suspended from practice before the Patent and Trademark Office. He now seeks reinstatement. His fourth petition for reinstatement was filed with the Director on March 30, 1998. On December 14, 1998, Petitioner requested that the Director "suspend the further processing" of his petition until further notice, in order to allow Petitioner to update the Director on the status of several related proceedings. Petitioner then requested an oral hearing before the Commissioner. On January 6, 1999, Petitioner's request for an oral hearing was dismissed as premature, and Petitioner was informed that any new evidence should be filed with the Director. On January 12, 1999, Petitioner supplemented his petition for reinstatement with new evidence.

On January 13, 1999, Petitioner filed a petition with the Director requesting expedited adjudication of his petition. On January 20, 1999, in a telephone conversation with Petitioner, the

Director orally informed him that expedited processing for his petition was unavailable. On January 27, 1999, the Director issued her written opinion in support of that decision. In the interim, on January 25, 1999, Petitioner filed the present petition. Accordingly, Petitioner's present petition, though filed prior to the Director's written opinion, will be treated as a request for review of the Director's January 27, 1999, decision denying Petitioner's request for an expedited adjudication.

Petitioner seeks a decision on his pending petition for reinstatement "no later than 2/1/99" or, in the alternative, an oral hearing. To the Director, Petitioner explained the significance of this date--he would like to file a Fed. R. Civil Proc. 60(b) motion in an unrelated inter partes case that references the Director's decision if it is favorable. To the Commissioner, Petitioner does not explain why he must receive a decision on his petition by February 1, 1999. Rather, Petitioner requests that the Commissioner "take judicial notice of . . . exculpatory evidence," which he then describes in detail in the petition. However, as explained in the Commissioner's January 6, 1999, decision, all new evidence is considered by the Director in the first instance. See 37 C.F.R. § 10.2(c) (In review of a final decision of the Director refusing to reinstate a suspended petitioner, "no new evidence will be considered by the Commissioner in deciding" the petition.).

Petitioner's request to resume processing on his initial petition was filed less than two weeks ago. Importantly, the request was accompanied by approximately 30 new documents, some of which are voluminous. Furthermore, Petitioner appears to be still sending in documents, as exemplified in his January 21, 1999, communication to the Director. It is difficult to

understand how Petitioner expects the Director to issue her decision by February 1, 1999, when Petitioner continues to provide her with new submissions to review. Thus, it would be unfair to both Petitioner and the Director to order the Director to issue her decision on February 1, 1999, when the record on the petition has just recently been extensively supplemented.

Accordingly, Petitioner's request for a Director's decision no later than February 1, 1999, on his petition for reinstatement is denied. A decision will issue in due course.

Additionally, and as stated in the Commissioner's January 6, 1999, decision, given that the Director has not issued her decision on Petitioner's petition for reinstatement, the alternative request for an oral hearing is premature and, accordingly, dismissed.

JAN 28 1999

Q. Todd Dickinson
Acting Assistant Secretary of Commerce
and Acting Commissioner of Patents and Trademarks