

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

In re Applications of:)
)
GILBERT P. HYATT) Decision on Request
) under 37 C.F.R. § 1.304(a)(3)(i)
)
Serial No. 08/428,359)
Serial No. 08/472,062)
Serial No. 08/431,639)
Serial No. 08/463,820)
Serial No. 08/463,109)
Serial No. 08/462,333)
Serial No. 08/462,712)
Serial No. 08/456,398)

MEMORANDUM AND ORDER

On May 5, 2009, patent applicant Gilbert P. Hyatt (Hyatt) filed a request seeking an extension of time under 37 C.F.R. § 1.304(a)(3)(i)¹ to seek judicial review of the Board decisions in the eight above-captioned applications. The current deadline for judicial review on these eight applications is May 27, 2009. Hyatt has asked for an extension until August 27, 2009.

The additional time is granted for the reasons stated herein.

¹ While Hyatt's petition was denominated under 37 C.F.R. § 1.181, the Director treats the petition as brought under 37 C.F.R. § 1.304(a)(3), which provides for extensions of time to file an appeal to the Federal Circuit, or civil action in district court.

The Director disagrees with Hyatt's description of the April 14, 2009 and April 21, 2009 conversations between his attorneys and the Solicitor's Office, as stated both in the extension request and his attached "Telephone Conference Record"² (collectively, "May 5, 2009 submission"). Without detailing the inaccuracies, the Director simply denies the requested extensions to the extent it is based upon the reasons contained in the May 5, 2009 submission, except as discussed below.

The May 5, 2009 submission refers to "scheduling conflicts" for Hyatt's outside counsel, Messrs. Michael Martinez and Michael Coe. Mr. Coe later indicated that he and Mr. Martinez both have trials that they believe will last from May through at least June. The preparation for and litigation of those trials has greatly limited, and will continue to significantly impact, the ability to prepare civil actions pursuant to 35 U.S.C. § 145 on the above-referenced applications prior to the current May 27, 2009 deadline for such actions.

The Director may extend the time for civil action or appeal "[f]or good cause" when requested before the expiration of the period filing an appeal or commencing a civil action. 37 C.F.R. § 1.304(a)(3)(i). The scheduling conflict of Messrs. Martinez and Coe created by their respective trials is sufficient to grant the requested time extension.

ORDER

For the reasons stated herein, it is ORDERED that the request for an extension of time under 37 C.F.R. § 1.304(a)(3)(i) is granted.

Hyatt's time for seeking judicial review under 37 C.F.R. § 1.304(a)(1) for the above-referenced eight applications is extended from May 27, 2009, to August 27, 2009.

² It should be further observed that Hyatt did not participate in either phone conversation, making his "Record" hearsay.

Raymond Chen

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for

Intellectual Property Law and Solicitor