

**UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE DIRECTOR**

**Gilbert P. Hyatt**

Applicant

Decision on Requests for Extension of  
Time under 37 C.F.R. § 90.3(c)(1)(i)

Appl. Ser. Nos. 08/457,726, 08/459,505

**MEMORANDUM AND ORDER**

On December 21, 2023, Applicant Gilbert P. Hyatt. (“Applicant”) filed “Requests for Extension of Time” (“Requests”) to extend the time to seek judicial review of the Patent Trial and Appeal Board (“Board”) decisions in Application Serial Numbers 08/457,726 and 08/459,505. A table of the relevant information for each application number is listed below.

<b>Application Serial No.</b>	<b>Date of Board Decision</b>	<b>Due date for appeal or Section 145 action</b>	<b>Date for which an appeal extension is sought</b>
08/457,726	November 22, 2023	January 24, 2024	February 7, 2024
08/459,505	December 1, 2023	February 2, 2024	February 23, 2024

The Requests here—filed in writing before the expiration of the period for filing any of the appeal notices—fall under the “good cause” provision of 37 C.F.R. § 90.3(c)(1)(i). Under 37 C.F.R. § 90.3(c)(1)(i), the Office may, for good cause, extend the time to seek judicial review of a Board decision. Upon consideration of the Requests for extensions of time under 37 C.F.R.

§ 90.3(c)(1)(i), it is ORDERED that the Requests are GRANTED for the reasons set forth below.

Applicant has good cause for an extension of time for each of the two underlying applications. Applicant anticipates filing a Section 145 action for each of the applications and has conflicts arising before and after each application's due date for appeal.<sup>1</sup> Applicant explains that he and his counsel have complaints in other Section 145 actions due on December 22, 2023, January 5, 2024, January 12, 2024, January 19, 2024, and February 20, 2024, as well as reply briefs due in co-pending matters on December 28, 2023, January 5, 2024, January 12, 2024, February 7, 2024, February 16, 2024, and February 26, 2024. Req. at 2. Applicant also explains that his counsel will be involved in a three-week trial starting on January 16, 2023 and therefore will be unable to devote the necessary time to prepare each Section 145 complaint in the applications for which he seeks an extension. *Id.* Lastly, Applicant explains that the requested due dates accommodate these conflicts. The Office agrees that these reasons provide good cause for the extensions.

In his Requests, Applicant explains that the USPTO approved extensions for other Section 145 actions that “have approximately one-week spacing between complaints” and asserts that such spacing is “previously approved by the PTO for

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<sup>1</sup> 37 C.F.R. § 90.3(a) provides that judicial review of a Board decision must be sought within sixty-three (63) days of the Board decision.

other complaints of this sort.” Req. at 2. The USPTO’s approval of prior requests for extensions does not justify granting these latest requests for extensions, however. The Office evaluates each extension request based on the facts and circumstances presented in the request. Although the Office agrees that the facts and circumstances set forth in the present Requests demonstrate good cause for the extension, this does not guarantee that any future request will be granted, regardless of the resulting time span between complaints.

**ORDER**

Upon consideration of the Requests, it is ORDERED that the Requests are **granted**. Applicant’s deadline to file a Section 145 action for each of the underlying applications is extended in accordance with the chart below.

<b>Serial No.</b>	<b>Date for which an appeal extension is GRANTED</b>
08/457,726	February 7, 2024
08/459,505	February 23, 2024

KATHERINE K. VIDAL  
Under Secretary of Commerce for  
Intellectual Property and Director of the  
U.S. Patent and Trademark Office

By: /s/ Farheena Y. Rasheed  
Farheena Y. Rasheed  
Acting Solicitor

DATE: January 4, 2024

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