

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

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In re Application Binie V. Lipps et al)
Serial No. 10/047,945) Decision on Request
Filed: September 18, 2007) under 37 C.F.R. § 1.304(a)(3)(i)
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MEMORANDUM AND ORDER

On September 18, 2007, patent applicants Binie V. Lipps et al. (Lipps) filed a request seeking an extension of time under 37 C.F.R. § § 11.304(a)(3)(i) to file a Notice of Appeal appeal to the U.S. Court of Appeals for the Federal Circuit in application serial number 10/047,945.

The petition is granted.

On December 21, 2006, the Board of Patent Appeals and Interferences (Board) issued a decision affirming the enablement rejection of pending claims 9-18. Lipps filed a timely Request for Reconsideration on February 20, 2007. On July 31, 2007, the Board denied the Request. On August 29, 2007, the Examiner entered a Notice of Abandonment because the period for seeking judicial review of the December 21, 2006 decision had expired.

On September 18, 2007, Lipps filed a paper with the USPTO seeking withdrawal of the abandonment or revival due to unintentional abandonment. Lipps alleges therein that the application was prematurely abandoned because it filed a timely request for reconsideration under 37 C.F.R. § 41.52(a) of the Board decision dated December 21, 2006. Lipps argues that, under 37 C.F.R. § 1.304(a)(1), he has until September 30, 2007, to seek judicial review. Because a decision on the abandonment petition is unlikely to occur prior to September 30, 2007, Lipps filed the subject time extension request, seeking an extension of one month from a decision on its abandonment

petition in which to file any action under § 1.304(a)(1).

The Director may extend the time for filing an appeal notice “[f]or good cause shown if requested in writing before the expiration of the period for filing an appeal or commencing a civil action.” 37 C.F.R. § 1.304(a)(3)(i). The facts above are sufficient to show good cause to grant the requested time extension.

ORDER

Upon consideration of the petition for an extension of time under 37 C.F.R. § 1.304(a)(3)(i), it is ORDERED that that petition is granted.

Lipps’ time for seeking judicial review under 37 C.F.R. § 1.304(a)(1) is extended one (1) calendar month from the date of a final decision on Lipps’ paper filed September 18, 2007 and styled “Request for Reconsideration and Withdrawal of Holding of Abandonment/Alternative Petition for Revival on an Unintentionally Abandoned Patent Application.”

Stephen Walsh

Acting Deputy General

Counsel for

Intellectual Property Law and Solicitor

cc: John R. Casperson
P.O. Box 2174
Friendswood, TX 77549
(281) 482-2961