

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

In re Application of: Murakami et al.)
Application No. 10/504,393) Decision on Request
_____) under 37 C.F.R. § 1.304(a)(3)(i)

MEMORANDUM AND ORDER

On May 4, 2012, applicants Atsuhiko Murakami et al. (Murakami) filed a Request under 37 C.F.R. § 1.304(a)(3)(i) for additional time in which to seek judicial review of the Board Decision in the above-captioned *ex parte* application. The two-month deadline set by 37 C.F.R. § 1.304(a)(1) for seeking judicial review of the Decision was May 7, 2012.¹ The Request explains that members of the docketing department at the law firm handling Murakami's appeal inadvertently identified the Decision as requiring no further action. The error was based a misunderstanding of a prior communication from the client, Dai-Ichi International Patent Office (Dai-Ichi), indicating that no further action need be taken in the Board Appeal with respect to the Examiner's Answer; a docketing clerk erroneously believed that directive applied to the Board Decision as well. As a result, a copy of the Decision was not sent to Dai-Ichi. The error was discovered on May 1, 2012, after receiving a Notice of Abandonment from the USPTO, leaving insufficient time for Dai-Ichi to consider the Decision and make a determination as to whether to seek judicial review. The underlying Request was promptly filed on May 4, 2012, seeking an additional month in which to make that decision.

The Director may extend the time for filing an appeal or commencing a civil action for good

¹ The date of the relevant Decision is March 6, 2012. The two-month date for seeking judicial review is May 6, 2012, which is a Sunday, making the relevant filing due date May 7, 2012. In either event, the underlying Request here was filed before both May 6th and 7th.

cause shown if requested in writing before the expiration of the period for commencing the action. 37 C.F.R. § 1.304(a)(3)(i). Because Murakami filed his request prior to the deadline for seeking judicial review, the “good cause” standard governs. The Director finds that the totality of the present circumstances constitute “good cause.” The Director commends Murakami and his counsel for promptly filing the Request, and for the thoroughness of its explanation as to its basis.

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.

Murakami’s time for seeking judicial review under 37 C.F.R. § 1.304(a)(1) in the above-captioned application is extended from March 6, 2012, to June 18, 2012.

Raymond T. Chen

Deputy General Counsel

for

Intellectual Property Law and Solicitor

Dated: May 18, 2012

cc:

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