

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

Interference No. 105, 290)	
Nancy T. Chang et al. (Junior Party))	
)	
v.)	Decision on Request
)	under 37 C.F.R. § 1.304(a)(3)(i)
Marc Alizon et al. (Senior Party))	
_____)	

MEMORANDUM AND ORDER

On November 9, 2007, Nancy T. Chang et al. (Chang) filed a request seeking an extension of time under 37 C.F.R. § 1.304(a)(3)(i)¹ to pursue judicial review of the Board of Patent Appeals and Interferences' (Board) decision in Interference No. 105,290 (the '290 interference).

The petition is granted.

On September 28, 2007, the Board issued a decision denying Chang's motion for judgment based upon priority, and ordering that judgment be entered against Chang; judgement was entered separately the same day. Chang states that no request for rehearing or reconsideration has been filed on the Board's decision. Thus, under 37 C.F.R. § 1.304(a)(1), Chang has until November 28, 2007, to seek judicial review.

Chang now requests that its deadline for seeking judicial review of the Board decision be extended to January 28, 2008. Chang states that the additional time is necessary because the co-owners of the subject patent application – the United States Government and Centocor, Inc. – must also agree to seek review. In particular, authorization by the United States Government of any judicial review must be received from both the U.S. Department of Health and Human

¹ Decisions on petitions under Rule 304 are delegated to the Solicitor. MPEP § 1002.02(k)(3).

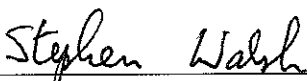
Services, and the Department of Justice. Chang states that while she has attempted to expedite review and authorization by the co-owners, it is “highly unlikely” that it will be completed by the current November 28th deadline. Chang represents that counsel for Alizon et al. (Alizon) has “indicated that they support the requested extension.”

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.

Chang’s time for seeking judicial review under 37 C.F.R. § 1.304(a)(1) is extended to January 28, 2008.



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