

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

**In re Bottomline Technologies,
Inc.,**

Applicant

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

Appl. Ser. No. 16/246,076

MEMORANDUM AND ORDER

On February 5, 2022, Applicant Bottomline Technologies, Inc. (“Applicant”) filed a request to extend the time to seek judicial review of the Patent Trial and Appeal Board (“Board”) decision in the underlying application here by a period of one (1) month after the Director decides two (2) petitions that were filed by the Applicant on January 21, 2022. The Board decision, affirming the unpatentability of all pending claims in the underlying application, issued on December 10, 2021.

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. Here, Applicant’s deadline to seek judicial review of the Board decision was February 11, 2022.

Accordingly, the extension request here—filed in writing before the expiration of the period for filing the appeal notice—falls 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 Director may, for good cause, extend the time to seek judicial review of a Board decision. Upon consideration

of the Request for an extension of time under 37 C.F.R. § 90.3(c)(1)(i), it is ORDERED that the Request is GRANTED for the reasons set forth below.

On December 10, 2021, the Board issued a decision in this case, affirming a § 101 rejection. On January 10, 2022, Applicant filed a “Petition for Director Review.” *See* Req. at 2. On January 11, the Director declined to consider the Applicant’s January 10, 2022 petition because the United States Patent and Trademark Office (USPTO) does not accept requests for Director review of ex parte appeals.

On January 21, 2022, Applicant filed two Petitions—“Renewed Petition for Director Review or, in the alternative, Petition for Supervisory Review” and “Petition for Supervisory Review (§ 41.3(b) and §1.181(a)(3)) and Petition to Excuse Late Filing (§ 41.4(b)(2)).”

Applicant requests an extension of time to allow the Director to act on the two January 21 petitions. *See* Req. at 3-4 (arguing that waiting for a decision from the Director provides good cause for the requested extension). The Director agrees that the two pending January 21 petitions provide good cause for the requested extension as a favorable decision on those petitions could obviate the appeal.

Applicant requests that the additional time on his appeal-notice window begin running one (1) month from the decision on the two January 21 petitions. *See* Req. at 4. Because one month is an ill-defined time period, the Director construes the request to be for a period of thirty (30) days from the decision on the two January 21 petitions. The Rule 90 request for extension of time is GRANTED. Applicant’s

deadline for seeking judicial review of the December 10, 2021 Board decision in the underlying application is extended for thirty (30) days after the Director decides the two petitions that were filed by the Applicant on January 21, 2022¹.

Andrew Hirshfeld
UNDER SECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE

/s/Amy J. Nelson
AMY J. NELSON
Acting Deputy Solicitor

Date: February 15, 2022

cc (via email): Richard A. Baker, Jr.
Director of Intellectual Property
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¹ There will be no additional time provided for Applicant to seek judicial review, based on the filing of any future petitions by Applicant in this case.