

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE DIRECTOR

In re Allied Machine & Engineering Corp.) Decision on Request
Reexamination Control No. 90/012,666) under 37 C.F.R. § 90.3(c)(1)(i)
_____)

MEMORANDUM AND ORDER

On June 10, 2016, patent owner Allied Machine & Engineering Corp. (Allied) filed a Request seeking an extension of time under 37 C.F.R. § 90.3(c)(1)(i) on its deadline to pursue an appeal to the United States Court of Appeals for the Federal Circuit under 35 U.S.C. § 141 for review of the Patent Trial and Appeal Board (Board) decision in Ex Parte Reexamination Control No. 90/012,666 (the '666 Reexamination). The Board issued a decision on Allied's Request for Rehearing on April 18, 2016; under Rule 90, an appeal notice in the '666 Reexamination is due on or before June 20, 2016. Thus, this Request falls under 37 C.F.R. § 90.3(c)(1)(i), which permits the Director to extend the time for pursuing judicial review if requested in writing "before the expiration of the period for filing an appeal or commencing a civil action, and upon a showing of good cause."¹

Allied represents that an extension is needed to permit the Board to entertain its "Second Request for Rehearing" and related "Petition for Waiver of the Rules Pursuant to 37 C.F.R. § 41.3," both filed as well on June 10, 2016. *See generally* Req. at 1-3. The Director finds that the Request meets the "good cause" standard, as the time will permit the USPTO to address Allied's filings.

¹ Decisions on requests for additional time to seek judicial review of Board decisions are delegated to the Solicitor. MPEP § 1002.02(k)(3).

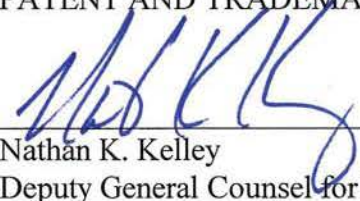
ORDER

Allied's Request under Rule 90.3(c)(1)(i) is granted. Allied's deadline for filing a Notice of Appeal to the United States Court of Appeals for the Federal Circuit on the Board's April 18, 2016 Rehearing Decision—currently due June 20, 2016—is extended to the date on which the USPTO decides Allied's "Petition for Waiver of the Rules Pursuant to 37 C.F.R. § 41.3," filed June 10, 2016.

If the Petition is denied, Allied is granted an additional 63 days from the date of that Petition decision in which to file its Notice of Appeal to the Federal Circuit in the '666 Reexamination.

If the Petition is granted, any additional time to seek appellate review is unnecessary; Allied will have 63 days from the Board's decision on Allied's Second Request for Rehearing to file its Notice of Appeal with the Federal Circuit.

MICHELLE K. LEE
UNDERSECRETARY OF COMMERCE
FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES
PATENT AND TRADEMARK OFFICE

By: 
Nathan K. Kelley
Deputy General Counsel for Intellectual Property
Law and Solicitor

DATE: June 13, 2016

cc: Scott Oldham
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