

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 18

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte DEAN PAUL KOSSIVES,  
FAN REN and KING LIEN TAI

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Appeal No. 2001-1115  
Application No. 08/946,693

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ORDER REMANDING TO EXAMINER

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Effective April 21, 1995, 37 CFR § 1.192(c)<sup>1</sup> was amended to provide as follows (underlining added for emphasis):

(c) The brief shall contain the following items under appropriate headings and in the order indicated below unless the brief is

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<sup>1</sup> 60 F.R. 14518 (March 17, 1995), 1173 O.G. 62 (April 11, 1995).

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filed by an applicant who is not represented  
by a registered practitioner:

. . . .

(2) Related appeals and interferences. A Statement identifying by number and filing date all other appeals or interferences known to appellant, the appellant's legal representative, or assignee which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

The brief filed April 7, 2000 (Paper No. 14) is defective under 37 CFR § 1.192(d) because it fails to comply with the provisions of the rule pertaining to the "related appeals and interferences."

The Manual of Patent Examining Procedure (MPEP) § 1206 (7th Ed., Rev. 1, February 2000) states:

. . . If appellant does not identify any other appeals or interferences, the examiner will presume that there are none. While the examiner will assume that there are no related cases when no related case is explicitly set out in the brief, nevertheless, the Board may require the appellant to explicitly identify any related case. See MPEP § 1210.01.

In addition, an amendment after final was filed by appellants on April 7, 2000 (Paper No. 13). The Examiner's

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Answer mailed June 20, 2000 (Paper No. 15) indicated on page 2 under the caption "(3) Status of Claims" that "[c]laim [sic] 10 and 11 have been canceled." A review of the record indicates the amendment was not entered.

Finally, on February 8, 2000, appellant filed a Notice of Appeal with a request for a one month extension of time (Paper No. 12) and requested that the fee of \$410 be charged to Deposit Account 12-2325. To date, this fee does not appear to have been charged.

Accordingly, it is

ORDERED that the application is remanded to the examiner:

1. for resolution of the issues set forth above regarding the "related appeals and interferences";
2. for entry of the amendment filed April 7, 2000 (Paper No. 13) and notification to appellants in writing of the action taken;
3. for properly charging the amount of \$410 to Deposit Account 12-2325 for the Notice of Appeal and Extension of Time filed February 8, 2000 (Paper No. 12); and
4. for such further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS  
AND INTERFERENCES

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DALE SHAW  
Program and Resource Administrator  
(703) 308-9797

DS:psb

cc: Thomas Kayden  
Horstemeyer & Risley  
Suite 1500  
100 Galleria Parkway NW  
Atlanta, GA 30339-5948