

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board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. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte ERIC T. HENGSTENBERG

Appeal No. 2004-0480
Application 10/142,485

ORDER REMANDING TO EXAMINER

On August 12, 2003, the examiner filed an examiner's answer (Paper No. 13).

There is no indication that an appeal conference was held. The Manual of Patent Examining Procedures (MPEP) § 1208 states:

The participants of the appeal conference should include (1) the examiner charged with preparation of the examiner's answer, (2) a supervisory patent examiner (SPE), and (3) another examiner, known as a conferee, having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal.

...

On the examiner's answer, below the primary examiner's signature, the word "Conferees:" should be included, followed by the typed or printed names of the other two appeal conference participants. **These two appeal conference participants must place their initials next to their names. This will make the record clear that an appeal conference has been held.**

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Upon receipt of the appeal case by the Board of Patent Appeals and Interferences (Board), the Board should review the application prior to assigning an appeal number to determine whether an appeal conference has been held.

Accordingly, it is

ORDERED that the application is remanded to the examiner for appropriate consideration of the examiner's answer pertaining to the appeal conference, and for such further action as may be appropriate.

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

BOARD OF PATENT APPEALS
AND INTERFERENCES

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