Australian Government
IP Australia

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27 August 2008

Lin Zhen Man
10 Ava Road Ava Tower #1907
SINGAPORE 329949
Singapore

RE: Application number **2003248601**
in the name(s) of **Zhem-man Lin**

Your Ref:

Dear Sir/Madam

Thank you for your letter received on 25 August 2008 regarding the fees for a PCT patent application in Australia.

As per our correspondence dated 19 May 2008, 27 May 2008 and 8 July 2008, I confirm that a 5th year anniversary fee of $250 was due on 12 June 2008.

As per page 5 of the PCT Applicant's Guide:

AU.05 Renewal Fee. A continuation (renewal) fee must be paid to maintain the application. The first continuation fee falls due five years from the international filing date; thereafter a continuation fee becomes due on each anniversary of the international filing date. Payment can be made at any time up to the due date or upon application for extension of time together with the payment of a fee for extension of time, within six months from the final date. The amounts of the continuation fees and of the fees for extension of time are indicated in Annex Au.1.

The above application has an international filing date of 12 June 2003. Therefore, the 5th continuation fee was due 12 June 2008 and is now overdue. This fee can be paid up to 6 months after it is due accompanied by appropriate late fees. In this case, the fee can be paid up until 12 December 2008 (12 June 2008 plus 6 months) with additional late fees of $100 a month or part thereof for every month the fee is late. After the 12 December 2008, the application will change to a status of lapsed, at which time you will need to apply for an extension of time under Section 223 of the Australian Patents Act 1990 to reinstate the application.

Further, as per page 6 of the PCT Applicant's Guide:

AU.10 Fee responding to an Examination Report. Where a response to an examination report is filed more than 12 months after the first examination report, a response fee must be

paid for each or part of each month past the twelfth up to the twenty-first, less any response fees already paid.

The Examiner's First Report is dated 13 March 2007. As your examination response was received 18 May 2008, a fee of $300 is due (13 March 2008 – 13 June 2008). We received a payment for $100 on 18 May 2008 and an Invitation to Pay was issued 21 May 2008 for the remaining $200. This $200 fee was due 23 June 2008 and is now overdue. If you wish to pay this outstanding fee, you will need to request an extension of time under Section 223 of the Australian Patents Act 1990 within which to pay the fee. Please be advised that there are fees attached to requesting an extension of time. In this case, you will need to apply for an extension of time from 23 June 2008 to when the payment is received by IP Australia.

I have enclosed information which will assist you in applying for an extension of time under Section 223 of the Patents Act. This information outlines the requirements of filing such a request and the grounds upon which you can make an application. The information I have enclosed is:

- Applying for an Extension Of Time information sheets
- Application for Extension of Time form P/00/013

Please note that an application under Section 223 is sent to a Delegate of the Commissioner for consideration, it is not an automatic allowance.

I confirm that the fee to enter national phase in Australia is $320, to which you refer in your letter received 25 August 2008. However, please be advised that additional fees are payable to maintain your application. All of the above information regarding what fees are payable is outlined in the PCT Applicant's Guide in Annex Au.I, page 1 to which you have referred.

Yours faithfully

AMY GARLICK
IP Rights Administration
Patent & Plant Breeders Rights Administration
Phone: (02) 6283 2353

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Applying for an Extension of Time - Patents

This fact sheet provides an overview on how to request an extension of time for a patent or patent application.

Why you may want an extension of time

You may want an extension of time to restore a patent, or patent application, that has lapsed because you did not pay a fee or take some other action in time. Perhaps you have lost your priority rights because you did not file a complete application within 12 months of your provisional application.

What do I have to do?

So long as you unintentionally missed doing an act or paying a fee, you can apply for an extension of time under section 223 of the *Patents Act*. You must:

- act quickly;
- pay any unpaid fees that are due, and (where possible) carry out the action which was not done in time; and
- file an application for the extension of time that shows you failed to take the required action because of:
  - **an error or omission** by yourself, your employees, agent or attorney; OR
  - **circumstances beyond your control**. Eg delays by post or courier, a sickness or accident. It does not cover lack of funds to pay a fee or excessive workloads.
  - or because, in spite of **due care** being exercised, the required action was not done. Due care would be having reasonable procedures and practices in place to perform the required action. Please note; under these circumstances there are time limits on when the application can be made and the extension of time period available.

Remember

1. You cannot get an extension of time if your failure to pay a fee, or to do an act, was intentional.
2. Failing to pay a fee, or to do an act, is not itself an error or omission.
3. If you make an application for an extension of time for more than 3 months we must advertise your application so that other people have an opportunity to oppose the extension.

How do I apply?

You can write your extension of time application on the official form P/00/013 which can be obtained from IP Australia. You must attach to it one or more statutory declarations setting out the reasons why the fee was not paid, or act not done, by the required date.

Statutory declarations

Statutory declarations are written statements of fact witnessed by an authorised person, eg. a justice of the peace. The declarations must:

- give a full and frank disclosure of all the relevant circumstances;

- describe the chain of events that caused the relevant fee from being paid, or act from being done, in time. You may have to get declarations from a number of people involved;
- explain the error or omission, or the circumstances beyond your control;
- explain any delays in making the application for an extension of time; and
- include copies of any relevant documents which support the explanations.

Fees

When you file your application for extension of time, you will have to pay a fee.

- If you are relying on **an error or omission** by yourself, or by your agent or attorney, the fee increases for every month of extension required.
- If you are relying on **circumstances beyond your control**, there is a single fee irrespective of the length of the extension sought.
- If you are relying on **due care**, the fee increases for every month of extension required.

Check the IP Australia website, or contact our Customer Service Network (see contact details below) for current fee information.

What do we do with your application?

If your application meets the requirements of the *Patents Act* we will approve your extension of time. If not, we will notify you of the reason, and give you an opportunity to file further material to support your request.

If the matter cannot be resolved, you can ask to be heard by the Commissioner of Patents. A decision of the Commissioner refusing to grant an extension of time may be appealed to the *Administrative Appeals Tribunal*.

Seek Professional Advice

This sheet provides only basic information. Patent matters can involve complex legal issues and it may be in your best interests to consult a patent attorney, a solicitor experienced in intellectual property matters, or your business adviser.

For a list of IP professionals, visit the IP Australia website www.ipaustralia.gov.au or search your local Yellow Pages Directory.

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Patents Act 1990 — Section 223/Regulations 22.11(1) & 5.10(2)

Application for an Extension of Time

[Subject to the provisions of the Patents Act, information provided on this form may be made publicly available, including on the Internet.]

Part 1 Formality details

Application / Patent No(s) *(Please list numerically)*

in the name of ACN/ARBN

Details of person seeking an extension of time

Name ACN/ARBN

Address

State Postcode

Address for Service (Must be a street address in Australia, so that legal documents can be served if required.)

State Postcode

Phone No. ( ) Fax No. ( )

Mobile No. Your Reference

Email

Part 2 Grounds and proceeding type for seeking an extension of time

Application is made under Section 223 for an extension of time because of *(tick appropriate box(es)):*

☐ (1) an error or omission by IP Australia (No fee)

☐ * (2) (a) an error or omission by the person concerned or by their agent (Fee payable)

☐ * (2) (b) circumstances beyond the control of the person concerned (Fee payable)

for an extension of time of *(number)* month(s) from / / *(date (if known))*

☐ The facts on which the above ground(s) are based are set out in the declaration.

Filing Fees 2(a) AU$100 for each month or part of a month for which extension is sought.

2(b) AU$100.

For more information, read our fact sheet on "Applying for an Extension of Time" at www.ipaustralia.gov.au/resources/forms_patents.shtml

For assistance in calculating correct fees, contact IP Australia by phone 1300 651 010, or email assist@ipaustralia.gov.au

Signature Date / /

ory declaration under the *Statutory Declarations Act 1959* as amended may be made before:

t A - Members of Certain Professions

ropractor Dentist Legal Practitioner Medical Practitioner

urse Pharmacist Veterinary Surgeon

Part B - Other Persons

Agent of the Australian Postal Corporation who is in charge of an office supplying postal services to the public

Australian Consular Officer, or Australian Diplomatic Officer, (within the meaning of the *Consular Fees Act 1985*)

Bailiff

Bank officer with 5 or more years continuous service

Building society officer with 5 or more years continuous service

Chief executive officer of a Commonwealth Court

Civil marriage celebrant

Clerk of a court

Commissioner for Affidavits

Commissioner for Declarations

Credit Union officer with 5 or more years continuous service

Holder of a statutory office not specified in another item in this part

Judge of a court

Justice of the Peace

Magistrate

Master of a court

Member of the Australian Defence Force who is:

(a) an officer; or

(b) a non-commissioned officer within the meaning of the *Defence Force Discipline Act 1982* with 5 or more years continuous service; or

(c) warrant officer within the meaning of that act

Member of the Institute of Chartered Accountants in Australia, the Australian Society of Certified Practising Accountants or the National Institute of Accountants

Member of the Institute of Corporate Managers, Secretaries and Administrators

Member of the Institution of Engineers, Australia, other than at the grade of student

Member of:

(a) the Parliament of the Commonwealth; or

(b) the Parliament of a State; or

(c) a Territory Legislature: or

(d) a local government authority of a State or Territory

Minister of religion registered under Division 1 of Part IV of the *Marriage Act 1961*

Notary Public

Permanent employee of:

(a) the Commonwealth or of a Commonwealth authority; or

(b) a State or Territory or of a State or Territory authority; or

(c) a local government authority;

with 5 or more years continuous service who is not specified in another item in this Part

Permanent employee of the Australian Postal Corporation with 5 or more years continuous service who is employed in an office supplying postal services to the public

Person before whom a statutory declaration may be made under the law of the State or Territory in which the declaration is made

Police Officer

Registrar, or Deputy Registrar, of a court

Senior executive service officer of the Commonwealth, or of a State or Territory, or of a Commonwealth, State or territory authority

Sheriff

Sheriff's officer

Teacher employed on a full-time basis at a school or tertiary education institution

Australian Government

IP Australia

Declaration

Application for an Extension of Time under section 223 of the Patents Act 1990 and regulations 22.11(1) & 5.10(2) of the Patents Regulations

I, _____

(insert name of person making declaration)

of _____

_____ State _____ Postcode

(insert the address of person making declaration)

do declare as follows:-

If you are making the declaration for the purposes of a business please complete the following:

1. **I am making this declaration in my capacity as** _____

(state your position or office held and address of the place of business)

Application / Patent No(s) for which an extension of time is sought

_____ _____ _____

2. **I am applying for the extension of time under section 223 / regulations 22.11(1) and 5.10(2) because:**

_____

If you require more space please turn over page ⟶

I make this declaration conscientiously believing the statements contained in this declaration to be true in every particular.

_____ / / _____

(Signature of person making declaration) Date Place

Before me, _____ _____

(Signature of person before whom declaration is made) *(Title of person before whom declaration is made)*

Please Note: A declaration must be made before a person before whom a statutory declaration may be made under the *Statutory Declarations Act 1959* (see Page 2 for list), or the law of the State, Territory or foreign country where the declaration is made.

on for applying for extension of time (continued) .....

If you require more space please attach as many A4 sheets of paper as required. Sign and date the last sheet attached and write the name of the person signing.