

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:

Applicant(s) : Lin ZHEN-MAN`
Application No. : 10/469,063

Filed : Aug. 13, 2005

For : **Surface Treatment of SARS-Infected Lungs**

Group Art Unit: 1616
Examiner: PAK, JOHN D

) About the
) 37 CFR § 1.114

)
) Oct.27, 2006

)

Commissioner of Patents
Alexandria, VA 22313-1450

Tel: 001 571 272-0506

Technical Support Staff

Dear Sir/Madam,

A notice of **abandonment** made by Examiner Mr. John Pak that showed the date mailed is 21th SEP, 2006, evidently this notice mail was to hold over send out, so received by applicant at Singapore on 11th OCT. 11, 2006.

Examiner Mr. John Pak was wrong to cancel this application, under the § 1.114 of 37 CFR - Patent Rules, appellant request continued examination of the application by filing this submission and attaching a Credit Card Payment Form for payment the USD \$395 under § 1.17(e).

The notice of abandonment was point out:

1. [x] Applicant's failure to timely file a proper reply to the Office letter mailed on 30 September 2005
 - (a) [x] A reply was received on 1/10/06 and 3/22/06 (with a Certificate of Mailing or Transmission dated ___), which is after the expiration of the period for reply (including a total extension of time of ___ month(s)) which expired on 30 December 2005.

Firstly, the date of office letter was mailed on 30th September 2005 and it is not regarded as the received date of applicant, USA is regarded as a country of the common law, in the statutory rules, a USA local litigant have seven days to receipt the office letter, let alone a overseas applicant, this case could not to become a cause for gossip of discriminate against Asian!

Secondly, the title " **Filing date and day for taking action** " of 35 CFR 21 is below:

- ¶ (a) The Director may by rule prescribe that any paper or fee required to be filed in **the Patent and Trademark Office will be considered filed in the Office on the date on which it was deposited with the United States Postal Service** or would have been deposited with the United States Postal Service but for postal service interruptions or emergencies designated by the Director.
- (b) When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls **on Saturday, Sunday, or a Federal holiday** within the District of Columbia, **the action may be taken, or fee paid, on the next succeeding secular or business day.** 』

The third, the title "(d) Specific filing forms" of 37 CFR § 41.106(d) (1) is below:

- ¶ (1) *Filing by mail.* A paper filed using the EXPRESS MAIL® service of the United States Postal Service will be deemed to be filed as of "date-in" on the EXPRESS MAIL® mailing label; **otherwise, mail will be deemed to be filed as of the stamped date of receipt at the Board.** 』

Obviously, in virtue of a post agreement between in the USA, Singapore and Hong Kong Government mutual, by the spread natural of this post law and US patent office himself to agree this application of abroad, therefore, the USA patent office must consider the postmark of United

States Postal Service include, Singapore and Hong Kong post.

If we cannot but agree with the Examiner Mr. John Pak to use lame arguments and unfair to determine the " receive date " of applicant must same the mailed date of USPTO is Sep.30, 2005.

But a without dispute to count mode is, the second day is 1st OCT, 2005, the last day is 31st Dec, 2005. Because 31st Dec, 2005, 1st Jan, 2006 and 2nd Jan, 2006 are holidays in Hong Kong, under above the 35 CFR 21(b) and 37 CFR 1.7, the deadline of "date in" to filing of correspondence the office which should be extended after the day of 4th Jan, 2006. To see the Date Stamp of left, applicant was not to protract the "date in" for filing time! **The received on 1/10/06 of USPTO recorded is wrong!**

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What was startling is that after applicant received a Notice of Extension of Time Fee of USPTO which mailed on 2/10/06, I, the applicant send a letter to explain the same above-mentioned and provided a decision that could be chosen by Examiner and send out by post on Mar. 10, 2006, below:

☐ If the office does not agree with the explanations and apply of above-mentioned, in addition, as per telecommunicate with your staff (TSS) on Monday, 5th March 06, I will attach a Credit Card Payment Form for payment the USD \$110 required for extension of time fee pursuant to § 1.136(a).

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The fourth reason being that the USPTO received the letter ought to be dated 16/3/06 in generally convention of postal delivery which not on 23/3/2006, in check, the 23/3/2006 is the pay out date of Credit Card of USD \$110, in evidence, the Examiner is wrong again!

The fifth reason is that after the \$110 of extension fee was agreed by the staff of USPTO and after six months of the payday, all at once, why the Examiner could re-explain the \$110 of extension fee and cancel this application and to piece up a pile reasons of rubbish are below:

☐ On 3/22/06, applicant's authorization for payment of \$110 was received The amount was insufficient as of 3/22/06, because by that time, a 3 month extension of time was required. This is what is meant by "continues to run" and "No New Time Period is Provided." \$110 was therefore insufficient to pay for 3 months extension of time. Consequently, none of applicant's responses (which responds to the Office action of 9/30/05) could be entered. With no such reply having been entered, this application must be deemed abandoned because the maximum statutory period of 6 months expired on 3/30/06

One of the faults of the Examiner is, as admit by the office notice which shown, applicant's reply was received on 1/10/06, so the extension of time was within first month, this is a numeral constant. Besides, the Notice of Extension fee of Technical Support Staff (TSS) is a Notice of supplement a deficit, the Examiner should not negate this two facts!

The second fault of the Examiner is, the applicant's reply to the Office which was mailed on 10th Mar, 2006 in which was recorded is "**as per telecommunicate with your staff(TSS) on Monday, 5th March 06, I will attach a Credit Card Payment Form for payment the USD \$110 required for extension of time fee pursuant to § 1.136(a)**", It could from this to testimony, the USD \$110 of

extension fee is to examine and approve by the Technical Support Staff (TSS) and sent out after five day by post and to pay cash on 23rd Mar, 2006.

The third fault is that it was a bad idea of Mr. John Pak to twist the Office received-day which day could to follow change and change by the payment-day of the extension fee and "**continues to run**", So the Examiner find an pretext to cancel any patent application if need to pay the extension fee.

So to say, an Examiner of bad intention who could hold the payment form in his hand not to pay or then the payment fee had some difference or any controversy, and again purposely not to notice for applicant until to the deadline, the pretext is **meant by "continues to run" and "No New Time Period is Provided."**, ultimately, Mr. John Pak the Examiner was heartless to use this means to cancel my patent application!

Fourthly, Mr. John Pak of Examiner violated the "Time for filing briefs" of **37 CFR §41.66** (b), the rules below:

- (b) Once an appellant's brief has been properly filed, any brief must be filed by respondent within one month from the date of service of the appellant's brief. The time for filing a respondent's brief or an amended respondent's brief may not be extended.

Obviously, the Examiner's wrong was unforgivable, because of the wrong record of USPTO himself, if Mr. John Pak is attempting to take advantage of the case of extension fee to cancel my application intentionally, it was already pass the rules of limit time, so the notice of **abandonment** made by Examiner Mr. John Pak it must to become invalid.

The above-mentioned, I strongly oppose and protest that the Examiner Mr. John Pak's acts are unreasonable!

I can reaffirm, this invention is very important in medicine civilization of mankind society, none of the Nobel prizes' medical achievements and the historical value can be compared to our invention! In this few month, after seeing my website, <http://www.ycec.net> my invent application have already popularise deep into every hospital of America now, any American, without respect to any elderly or baby whom all without exception to need this application of invent, there is no substitute, there is since the dawn of history alone invent only, in the same measure, the medical book of USA must to alter still, besides, to esteem the intellectual property is the important values of American and the way of stand country, today, the above-mentioned Examiner's means and behaviour were shameful! So the American reputation will fall because of this act if cannot repent and reform and will everlasting to a bad reputation that will be long remembered in medical treatment history of human.

Date : OCT. 27, 2006

Respectfully Submitted,



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