



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS

JUN 19 2012

Ms. Dorothy Hartman
#W105
2200 Benjamin Franklin Parkway
Philadelphia, PA 19130-3830

Dear Ms. Hartman:

Thank you for your letter of June 5, 2012, addressed to the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (USPTO), Mr. David Kappos. Your letter was referred to the Office of the Commissioner for Patents for response since it pertains to patent matters.

In your letter, you appear to express frustration with the prosecution of your Application, Serial Number 11/003,123. In particular, you are demanding the immediate issue of your application because the USPTO "has known or should have known" that you are the true inventor of your claimed invention which resulted in the "internet." You further call attention to several electronically-submitted documents (submitted on computer disks) that corroborate your inventive contribution as early as 1990. You further state that this evidence was not referenced by the examiner(s) during the eight years your application has been pending. You also appear to suggest that because you have evidence that you invented the internet, we are improperly denying you a patent.

I would like to start by apologizing for any difficulties that you may have encountered in some of your interactions with the USPTO.

A thorough review of USPTO records and contact with the management of the Technology Center where the patent application was examined was conducted. Our investigation leads us to believe that all submitted documents were sufficiently considered to the extent that they related to the prosecution of your claims. As you mentioned in your letter, the filing of letters of correspondence with Federal government officials were submitted on computer disks "as part of the specification of the original filing" of your patent application in December 2004. However, as you also mentioned, the filing date of your application was later changed to March 7, 2005. You appear to challenge the 2005 filing date because of the evidence submitted on these disks which even predate 2004. Thus, you allege that the USPTO is deliberately barring you from justice.

In order to receive an effective filing date of a nonprovisional patent application, an application must be complete as of the date received in the USPTO. 37 CFR 1.53(b) states:

Application filing requirements - Nonprovisional application. The filing date of an application for patent filed under this section, except for a provisional application under paragraph (c) of this section or a continued prosecution application under paragraph (d) of this section, is the date on which a specification as prescribed by 35 U.S.C. 112

containing a description pursuant to §1.71 and at least one claim pursuant to §1.75, and any drawing required by §1.81(a) are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date. A continuing application, which may be a continuation, divisional, or continuation-in-part application, may be filed under the conditions specified in 35 U.S.C. 120, 121 or 365(c) and §1.78(a).

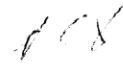
As noted in the letter mailed January 10, 2005, a filing date for your application was not accorded due to the noted deficiencies under 37 CFR 1.53(b). These deficiencies were corrected (papers filed March 7, 2005), and the Office duly assigned you (letter mailed March 21, 2005) the filing date of March 7, 2005. The fact that you have submitted documents or evidence of conception of your invention prior to 2005 or 2004 does not change the effective filing date of your application. In fact, applicants for patents are barred from obtaining a patent if the public came into possession of the invention on a date before the 1-year grace period ending with the U.S. filing date. Further, as noted by the examiner during prosecution of your application (See Final Rejection mailed July 12, 2011), the evidence and or affidavits you supplied to overcome the prior art was considered, but it was ineffective in antedating the cited references because the cited references were a "statutory bar under 35 U.S.C. 102(b)" which cannot be antedated by way of affidavit or declaration. For more detailed information, see the Manual of Patent Examining Procedure (MPEP) 706.02(b).

It is further noted that you are concerned about the new patent laws under the America Invents Act (AIA) where the USPTO is converting from a First to Invent to a First to File. As your application is currently under the jurisdiction of the Board of Patent Appeals & Interferences, you state that the outcome of the Board's decision would not come before the patent law changes "due to occur on September 13, 2012" and that your rights would be lost. First, the effective date for the First Inventor to File provision of AIA is March 16, 2013. Secondly, the changes to the law would not change the effective filing date of your application. Prior disclosure of the invention which is publically available more than one year before the effective filing date of an application continues to be a statutory bar. For more information on the First to File provision see, http://www.uspto.gov/aia_implementation/patents.jsp#heading-11.

I hope this letter addresses your concerns. If you have any further questions relating to this matter, please contact Eduardo C. Robert at (571) 272-8800.

Should you require further information on the status of your appeal, please contact the Board of Patent Appeals and Interferences at (571) 272-9797.

Sincerely,



Anthony Caputa
Office of the Commissioner for Patents