



Greenblum & Bernstein, P.L.C.
CLIENT ADVISORY
Recent Changes in Rules and Procedures

December 4, 2013

**Changes in Patent Law Treaty (PLT) and title II of Patent Law
Treaties Implementation Act of 2012 (PLTIA)**

Effective December 18, 2013

Dear Clients:

The U.S. PTO has recently revised their rules of practice for consistency with changes in the Patent Law Treaty (PLT) and title II of the Patent Law Treaties Implementation Act of 2012 (PLTIA). The following is a summary of the more significant changes, which will be effective on December 18, 2013.

**1. Requirement(s) for filing Claims and Specifications/Drawings in
Certain Applications**

A claim is no longer required for a nonprovisional application (other than for a design application) to be entitled to a filing date. Also, a nonprovisional application may now be filed “by reference” to a previously filed application instead of filing the specification and drawings. A period of time will be set by the U.S. PTO within which to supply a claim(s) and/or a copy of the specification and drawings of the previously filed application.

An application may be filed without a claim or drawings and will receive a filing date. However, this should not be taken as a best practice, but should be viewed as only a safeguard against the loss of a filing date due to a technicality. Moreover, a design application must contain a claim and any required drawings to be entitled to a filing date. The filing fee, oath or declaration, and claim(s) may be submitted after the filing date of an application, within a period and including a surcharge that will be set by the U.S. PTO.

2. Revival of Abandoned Applications and Lapsed Patents

The rules have been revised to provide for revival of an abandoned application and acceptance of delayed issue fee payments or delayed maintenance fee payments solely on the basis of “unintentional” delay, upon petition and payment of petition fee (currently \$1700.00). This revision also eliminates the provision of “unavoidable” delay for these circumstances.

3. Late Filing of Priority Applications Permitted

The right of priority to a prior filed provisional application or a prior-filed foreign application filed after the 12 month period (6 months for design

applications), but within two months from the expiration of that period, may be restored upon petition and payment of the applicable fee (currently \$1700.00), if the delay in filing was unintentional.

4. Patent Term Adjustment Reduction

The patent term adjustment provisions are revised to provide for a reduction of any patent term adjustment if an application is not in condition for examination within 8 months of its filing date or date of commencement of national stage in an international application.

5. Payment of Issue Fee

The U.S. PTO will proceed to issue a patent once the applicant pays the amount specified in the notice of allowance, regardless of the issue fee and/or publication fee in effect on the date the fee is paid. An exception to this rule has been made for applications receiving a notice of allowance mailed between October 1, 2013 and December 31, 2013 so that applicants can pay the reduced fee effective January 1, 2014, by payment of the reduced fee on or after January 2, 2014.

The notice issued by the U.S. PTO includes other changes that do not appear to be as significant as those noted above. Also, should you have any questions regarding the changes we have summarized above, please do not hesitate to contact us.

Best regards,

GREENBLUM & BERNSTEIN, P.L.C.

Contact Us:

www.gbpatent.com
gbpatent@gbpatent.com
703-716-1191 (phone)
703-716-1180 (fax)

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