

Mr. George F. Tomeny
President
Technology Transfer International, Inc.
Suite 100
Two Greenwich Place
Greenwich, CT 06830

Re: Petition to Revive Application Serial No. 74/549235
Applicant: Technology Transfer International, Inc.
For: CAULK IT!

Dear Mr. Tomeny:

This will acknowledge receipt of the petition to revive the above-referenced application, filed May 28, 1996.

FURTHER EXPLANATION IS NECESSARY

The application was abandoned for failure to file the Statement of Use or request for extension of time to file the Statement of Use within six months of the issue date of the Notice of Allowance (i.e. on or before January 25, 1996). The Applicant asserted that the reason for not filing the Statement of Use was that "no specific person in our company was designated to receive correspondence from the U.S. Patent and Trademark Office." Further explanation is necessary to determine the merits of this petition.

Pursuant to Section 1(d) of the Trademark Act, 15 U.S.C. §1051(d), an applicant must file a Statement of Use, or Request for Extension of Time to File a Statement of Use, within six months of the mailing date of a Notice of Allowance. If no Statement of Use or extension request is timely filed, the application is abandoned. 15 U.S.C. §1051(d)(4); 37 C.F.R. §§2.65(c) and 2.88(h); TMEP §1105.05(e)(1). Because the time for filing the Statement of Use is set by statute, it cannot be waived.

It is unclear whether Applicant received the Notice of Allowance. If not, this should be stated. In addition, Applicant should submit an explanation by the person handling the mail of the methods used for processing mail, and of how such methods ordinarily function to eliminate accidental loss or misplacement. To establish unavoidable delay, it is not enough to merely state that a thorough search was conducted for the paper. There is a presumption that mail which is properly addressed was timely delivered to the addressee. TMEP §1112.05(b)(v).

This explanation should be submitted in the form of an affidavit or declaration under 37 C.F.R. §2.20, based on the first hand knowledge of the affiant or declarant.

The following is a properly worded declaration under 37 C.F.R. §2.20. If the Statement of Facts in support of the Petition to Revive is not in the form of an affidavit, this declaration should be inserted at the end and signed by the petitioner or the party with firsthand knowledge of the facts being set forth.

The undersigned being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that the facts set forth in this Statement of Facts and Petition to Revive are true; all statements made of his/her own knowledge are true; and all statements made on information and belief are believed to be true.

(Signature)

(Print or Type Name and Position)

(Date)

Applicant is granted thirty (30) days from the mailing date of this letter to supplement the petition in accordance with the above. If no response is received within thirty (30) days from the mailing date of this letter, a decision on the petition to revive will be forthcoming based on the evidence presently of record. Please note that the filing date of a document in the Patent and Trademark Office is the date of receipt in the Office, not the date of deposit of the mail. 37 C.F.R. §1.6. To avoid lateness due to mail delay, certificates of mailing under Rules 1.8 and 1.10, 37 C.F.R. §§1.8 and 1.10, are encouraged.

If you have any questions pertaining to this matter, please call at the number listed below.

Sincerely,

Sarah Lee Chung
Staff Attorney
Office of the Assistant Commissioner
for Trademarks
(703) 308-8900 ext. 35