

issuance of a shark research fishery permit will depend on the submission of all required information, and NMFS' review of applicant information as outlined above. The 2011 shark research fishery will start after the opening of the shark fishery and under available quotas as published in a separate **Federal Register** final rule.

Dated: September 15, 2010.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2010-23442 Filed 9-17-10; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-552-801]

#### **Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Correction of Date for the Extension of Time Limit for Preliminary Results of the Seventh Antidumping Duty New Shipper Reviews**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**DATES:** *Effective Date:* September 20, 2010.

**FOR FURTHER INFORMATION CONTACT:**

Alan Ray, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; *telephone:* (202) 482-5403.

#### **Correction of the Extension of Time Limits for Preliminary Results**

On August 9, 2010, the Department of Commerce ("Department") published in the **Federal Register** a notice of extension of time limit for preliminary results of the seventh antidumping duty new shipper reviews for certain frozen fish fillets from the Socialist Republic of Vietnam covering the period August 1, 2009, through February 15, 2010. See *Certain Frozen Fish Fillets From the Socialist Republic of Vietnam: Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Reviews*, 74 FR 74441 (August 9, 2010). The **Federal Register** notice incorrectly stated that the preliminary results are currently due on January 17, 2010. The correct due date for the preliminary results is actually January 17, 2011.

This notice is published in accordance with section 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: September 10, 2010.

**Susan H. Kuhbach,**

*Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2010-23351 Filed 9-17-10; 8:45 am]

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## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

[Docket No. PTO-P-2010-0066]

#### **Request for Comments on Incentivizing Humanitarian Technologies and Licensing Through the Intellectual Property System**

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Request for comments.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is considering pro-business strategies for incentivizing the development and widespread distribution of technologies that address humanitarian needs. One proposal being considered is a fast-track *ex parte* reexamination voucher pilot program to create incentives for technologies and licensing behavior that address humanitarian needs. Because patents under reexamination are often the most commercially significant patents, a fast-track reexamination proceeding would allow patent owners to more readily and less expensively affirm the validity of their patents. Therefore, the opportunity to utilize a voucher for a fast-track reexamination proceeding could provide a valuable incentive for entities to pursue humanitarian technologies or licensing. The USPTO is requesting comments from the public regarding this proposal as well as other incentive proposals set forth in this notice.

**DATES:** *Comment Deadline Date:* To be ensured of consideration, written comments must be received on or before November 19, 2010. No public hearing will be held.

**ADDRESSES:** Written comments should be sent by electronic mail message over the Internet addressed to [HumanitarianProgram@uspto.gov](mailto:HumanitarianProgram@uspto.gov). Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Joni Y. Chang. Although comments may be submitted by mail, the USPTO prefers to receive comments via the Internet.

The written comments will be available for public inspection at the Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the USPTO's Internet Web site (*address:* <http://www.uspto.gov>). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:**

Robert A. Clarke (at 571-272-7735) or Joni Y. Chang (at 571-272-7720), Office of Patent Legal Administration, Office of the Associate Commissioner for Patent Examination Policy. Inquiries regarding the current reexamination practice may be directed to the Office of Patent Legal Administration, by telephone at (571) 272-7703, or by electronic mail at [PatentPractice@uspto.gov](mailto:PatentPractice@uspto.gov).

Inquiries regarding electronic filings should be directed to the Patents Electronic Business Center (EBC) at 866-217-9197.

**SUPPLEMENTARY INFORMATION:** The USPTO is considering a fast-track *ex parte* reexamination voucher pilot program as an incentive to stimulate technology creation or licensing that addresses humanitarian needs. Under the proposed pilot program, a fast-track *ex parte* reexamination voucher would be offered to patent holders demonstrating humanitarian uses of patented technologies. This voucher could then be used on any patent owned by the patent holder or transferred on the open market. The U.S. Food and Drug Administration (FDA) currently has a similar voucher program for fast-track review in place. Under this program, the FDA awards priority review vouchers to entities that develop drugs to treat neglected tropical diseases. Recent legislative proposals such as the Creating Hope Act, S. 3697 (2010), on rare childhood diseases shows a desire on the part of Congress to expand such efforts. The USPTO is also exploring ideas for other strategies that would use the patent system to incentivize activity addressing humanitarian needs.

Fast-track *ex parte* reexamination proceedings would be given the highest priority, such that an examiner would take any necessary action in a reexamination proceeding as if the proceeding were the next item in the examiner's queue. In addition, the USPTO would accelerate the time for which fast-track *ex parte* reexamination proceedings are handled by the USPTO (*i.e.*, examiner and the Board of Patent

Appeals and Interferences (BPAI)). The USPTO's goal for this time would be six months. The patent owner would not be required to waive any current statutory and procedural rights, and would have the same time periods for filing responses and other communications as those under the existing procedure. The six-month goal would only measure the time periods that the USPTO takes for actions (e.g., from the date of filing of a response to the date of mailing of the action), excluding the time that the patent owner takes for responding to an action. This goal compares to the current 19 to 20-month period that the USPTO takes for action in *ex parte* reexamination based on a review of 100 certificates issued between June 15, 2010, and July 31, 2010.

In the pilot program, a fast-track *ex parte* reexamination voucher would be offered to patent holders demonstrating humanitarian practices with patented technologies as described below. Specifically, organizations may be eligible for the program if they engage in intellectual property practices that qualify as either humanitarian use or humanitarian research.

"Humanitarian use" would comprise four principles: *subject matter*, *effectiveness*, *availability*, and *access*. In general terms, *subject matter* evaluates whether the patented technology addresses a recognized humanitarian problem. *Effectiveness* judges whether the technology can be used or is being used to address that issue. *Availability* determines whether the technology is available to an affected impoverished population. *Access* evaluates whether the applicant has made significant efforts to increase access to the technology among such populations. The USPTO seeks to develop a workable test to apply these principles that is clear, concise, administratively efficient, and resistant to abuse.

"Humanitarian research" would comprise two principles: *significance* and *access*. *Significance* requires that the patented technology make a significant contribution to research on a problem that predominantly affects an impoverished population, such as the tropical diseases identified by the FDA in its priority review voucher scheme. *Access* determines that the patented technology was made available to researchers on generous terms. The USPTO seeks to develop a workable test to apply these principles which is clear, concise, administratively efficient, and resistant to abuse.

Comments on one or more of the following questions would be helpful to the USPTO:

1. The FDA awards priority review vouchers to entities that develop drugs which treat a tropical disease under 21 U.S.C. 360n. Should recipients of this FDA voucher automatically receive a humanitarian fast-track *ex parte* reexamination voucher from the USPTO?

2. FDA priority review vouchers are transferable on the open market. Should USPTO fast-track *ex parte* reexamination vouchers similarly be transferable on the open market?

3. What humanitarian issues should qualify for the voucher program? Neglected diseases, debilitating health conditions in developing countries, chronic hunger, widespread public health problems such as lack of sanitation or potable water, and/or other issues predominantly affecting impoverished populations? Can these be defined with reference to existing humanitarian aid organizations?

4. Other than actual use, how can a patent owner demonstrate that a patented technology would be effective at addressing a particular humanitarian issue? What kinds of expertise would be required to make those judgments?

5. Should the USPTO consider statements from independent third parties (particularly humanitarian organizations or researchers) on the effectiveness or actual use of an invention to address humanitarian needs? Should such submissions be required to qualify for a voucher?

6. Should certain elements (e.g., neglected diseases, tropical crops, developing countries) of qualifying humanitarian criteria be defined with reference to lists or criteria provided by external organizations experienced in such matters, such as the World Health Organization, National Institutes of Health, Food and Drug Administration, United Nations, or U.S. Agency for International Development? If so, which criteria of other public or private organizations should be followed?

7. What actions should be considered to determine whether a patent holder has made significant efforts to increase access to a patented technology? What types of evidence of such actions can be submitted to minimize the burden on both patent owners and the USPTO?

8. How should a patented technology's significance to a humanitarian research project be determined? Should significance mean that the research could or would not have occurred without the use of the patented technology? Would considering economic or logistical factors suffice? Should qualifying research efforts meet certain minimum thresholds (resources, number of

researchers involved, involvement from recognized humanitarian groups, etc.) to prevent abuse?

9. For the humanitarian research qualification, what factors should determine whether terms of use are generous? Should it only focus on the cost of the patented technology or consider other factors? What if the granting entity retains any rights over the results of the humanitarian research?

10. How can the program encompass humanitarian issues affecting impoverished populations in more developed countries in a way that is efficient to administer and deters abuse? In particular, how should an applicant demonstrate the existence of an impoverished group and that the product or treatment primarily targets that group?

11. Should vouchers to accelerate initial examination rather than reexamination be offered for technologies addressing humanitarian needs? Are there other pro-business strategies that the Department of Commerce or the USPTO should pursue in future programs to incentivize humanitarian research and development and/or best practices for intellectual property with humanitarian uses?

12. Would non-monetary prizes or awards sponsored by the USPTO recognizing humanitarian efforts encourage greater investment in the field? What criteria should be used for selecting recipients?

Dated: September 13, 2010.

**David J. Kappos,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

RIN 0648-XZ11

#### New England and Mid-Atlantic Fishery Management Councils; Amendment 5 to the Monkfish Fishery Management Plan

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Supplemental Notice of Intent to prepare an environmental assessment (EA); request for comments.

**SUMMARY:** This supplemental notice is to alert the interested public of the New