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In re Application of :  
TRUXES, III, William W. :  
Application No.: 11/299,019 : DECISION  
Attorney Docket No.: None :  
For: A NOVEL JACK FORM LED LAMP :  
PACKAGE AND CADDY :

This decision is in response to applicants' "PETITION REQUESTING THE DOCUMENTS FILED 18 NOVEMBER 2005 BE TREATED AS A 111 FILING TO PRESERVE MY PRIORITY DATE OF 22 NOVEMBER 2004" filed on 15 December 2005 in the United States Patent and Trademark Office (USPTO). The petition has properly been treated as a petition under 37 CFR 1.182.

**BACKGROUND**

On 29 October 1999, applicant filed a TRANSMITTAL LETTER (FORM PTO-1390) for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, a specification, drawings, abstract, and claims.

On 15 December 2005, applicant filed the instant "PETITION REQUESTING THE DOCUMENTS FILED 18 NOVEMBER 2005 BE TREATED AS A 111 FILING TO PRESERVE MY PRIORITY DATE OF 22 NOVEMBER 2004", which has properly been treated as a petition under 37 CFR 1.182. The petition was accompanied by, *inter alia*, \$480 in fees.

**DISCUSSION**

The petition requests that the application be converted from an application filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a). Such a petition is treated under 37 CFR 1.182. The petition fee is \$400. Applicant has submitted a total of \$630 in fees thus far. These fees have been accounted for in the following manner:

- \$150 filing fee, small entity, for 35 U.S.C. 111(a) application;
- \$400 petition fee for petition under 37 CFR 1.182; and
- \$80 towards search fee, small entity, of \$250.

Accordingly, the petition fee has been paid.

Because there was no prior international application designating the United States, applicant is not entitled to rely on the papers filed 18 November 2005 to enter the national stage in the United States. The transmittal letter of 18 November 2005 was clearly an application for a United States patent. Applicant erred in identifying the application as a national stage application. The application papers contained all the elements necessary to obtain a filing date under 35 U.S.C. 111(a) and 37 CFR 1.53(b). Since applicant cannot proceed under 35 U.S.C. 371 and applicant has filed the necessary papers under 35 U.S.C. 111(a), it is appropriate in this instance to grant applicant's petition to accept the papers filed on 18 November 2005 as an application filed under 35 U.S.C. 111(a).

**CONCLUSION**

For the reasons set forth above, the petition under 37 CFR 1.182 is **GRANTED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application will be forwarded to the Office of Initial Patent Examining for processing as an application under 35 U.S.C. 111(a) having a filing date of **18 November 2005**.



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