

NOTE: This order is nonprecedential.

United States Court of Appeals for the Federal Circuit

2009-1194
(Serial No. 77/107,926)

IN RE PAVEL MASLYUKOV

Appeal from the United States Patent and Trademark Office, Trademark
Trial and Appeal Board.

Before MOORE, Circuit Judge.

ORDER

Pavel Maslyukov moves for leave to proceed in forma pauperis. We consider whether Maslyukov should be directed to show cause why his appeal should not be dismissed.

On September 17, 2008, the United States Patent Office, Trademark Trial and Appeal Board issued its decision denying registration to Maslyukov's application to register the mark HAIG for whisky. It appears that Maslyukov filed a timely motion for reconsideration from that decision. On October 30, 2008, the Board denied reconsideration. It appears that Maslyukov filed a second request for reconsideration. On December 16, 2008, the Board again denied reconsideration. Maslyukov filed his notice of appeal on January 21, 2009, 82 days after the Board's denial of his first request for reconsideration.

It does not appear that Maslyukov filed a motion for the Board to extend the period of time to file his appeal. In such cases, for an appeal from the Board to be timely, it must be filed within two months from the date of the Board's denial of reconsideration, in this case two months from October 30, 2008. 37 C.F.R. § 2.145(d).

In similar circumstances, we have held that the time to appeal is tolled only pending a decision on the first motion for reconsideration. See Kraft, Inc v. United States, 85 F.3d 602 (Fed. Cir. 1996). Because it does not appear that Maslyukov filed his notice of appeal within the requisite period of time, he is directed to show cause why his appeal should not be dismissed.

Regarding Maslyukov's motion for leave to proceed in forma pauperis, Maslyukov failed to provide answers concerning his income or assets. The court therefore denies his motion without prejudice to Maslyukov refiling the motion within 30 days from the date of filing of this order with the requisite information, whether that information pertains to income or assets within the United States or abroad.

Accordingly,

IT IS ORDERED THAT:

(1) Maslyukov is directed to show cause, within 30 days of the date of filing of this order why his appeal should not be dismissed as untimely. The Director of the Patent and Trademark Office may also respond within that time.

(2) Maslyukov's motion for leave to proceed in forma pauperis is denied without prejudice to Maslyukov refiling his motion with all income and asset information completed within 30 days.

(2) The briefing schedule is stayed.

FOR THE COURT

MAR 20 2009

Date

/s/ Jan Horbaly
Jan Horbaly
Clerk

FILED
U.S. COURT OF APPEALS FOR
THE FEDERAL CIRCUIT

cc: Pavel Maslyukov (IFP form enclosed)
Raymond T. Chen, Esq.

s19