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In re Application of Impossible Foods Inc.
Application No.: 17/531,442
Filing Date: 19 November 2021
Attorney Docket No.: 38767-0010006
For: METHODS AND COMPOSITIONS FOR
CONSUMABLES

**DECISION ON PETITION
UNDER 37 CFR 1.78(c) AND 1.78
(e)**

This is a decision on the petition under 37 CFR 1.78(c) and (e), filed 28 March 2023, to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 120 for the benefit of priority to one or more prior-filed provisional and nonprovisional/international applications.

Under 37 CFR 1.78(c) and (e), a petition to accept an unintentionally delayed claim under 35 U.S.C. 119(e) and 120 for the benefit of a prior-filed application must be accompanied by:

- (i) the reference required by 35 U.S.C. 119(e) and 120 and 37 CFR 1.78(a)(3) and 1.78(d)(2) to the prior-filed applications, unless previously submitted;
- (ii) the petition fee set forth in 37 CFR 1.17(m); and
- (iii) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(4) and (d)(3) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

With regard to item (i), the intermediate applications in the benefit chain do not contain proper references to various prior application numbers as discussed below. As set forth in MPEP 211.01(b), Section II., "Benefit Claims to Multiple Prior Applications", "Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. . . . Appropriate references must be made in each intermediate application in the chain of prior applications."

In the present case, the following deficiencies are noted:

Application number 13/941,211 lacks a direct reference to application number 61/671,069.

Application number PCT/US2014/011361 fails to state its relationship to application number 13/941,211 as required under 37 CFR 1.78(d)(2). A proper relationship would be continuation, continuation-in-part, or divisional. "Claims priority to" is insufficient.

EXHIBIT 1171

Application number PCT/US2014/011361 fails to state that application number 13/941,211 is a CIP of application number PCT/US2012/046560, which claims benefit to application number 61/572,205, and that application number 13/941,211 claims benefit to application number 61/671,069.

Application number 14/796,970 fails to state that application number 13/941,211 is a CIP of application number PCT/US2012/046560, which claims benefit to application number 61/572,205, and that application number 13/941,211 claims benefit to application number 61/671,069.

Application number 15/786,776 fails to state that application number 13/941,211 is a CIP of application number PCT/US2012/046560, which claims benefit to application number 61/572,205, and that application number 13/941,211 claims benefit to application number 61/671,069. It is noted that the 1.78 petition filed in application number 15/786,776 is not grantable due to at least the deficiencies above.

Application number 16/238,769 fails to state that application number 13/941,211 is a CIP of application number PCT/US2012/046560, which claims benefit to application number 61/572,205, and that application number 13/941,211 claims benefit to application number 61/671,069. It is noted that the 1.78 petition filed in application number 16/238,769 is not grantable due to at least the deficiencies above.

Application number 17/081,938 fails to state that application number 13/941,211 is a CIP of application number PCT/US2012/046560, which claims benefit to application number 61/572,205, and that application number 13/941,211 claims benefit to application number 61/671,069. It is noted that the 1.78 petition filed in application number 17/081,938 is not grantable due to at least the deficiencies above.

Before the petition can be granted, the intermediate applications must be properly amended to include appropriate references to the prior application numbers.

With regard to item (ii), the petition fee set forth in 37 CFR 1.17(m) has been submitted.

With regard to item (iii), the petition contains a proper statement of unintentional delay.

For the reasons above, the petition under 37 CFR 1.78(c) and (e) is **DISMISSED** without prejudice.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, International Patent Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the International Patent Legal Administration.

/btl/

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