

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL J. CAPLAN

Appeal 2007-4323
Application 09/731,375
Technology Center 1600

Mailed: June 27, 2008

Before DALE M. SHAW, *Chief Appeals Administrator*
SHAW, *Chief Appeals Administrator*.

ORDER DISMISSING APPEAL

On March 11, 2003, Appellant filed a Notice of Appeal. On June 2, 2008, counsel for the appellant filed, among other documents, a Request for Continued Examination (RCE) under 37 CFR ' 1.114. Pursuant to the notice entitled ARequest for Continued Examination Practice and Changes to Provisional Application Practice,@ 65 Fed. Reg. 50092, 50095 (Aug. 16, 2000), and the provisions of 37 CFR ' 1.114(d), a request

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for continued examination under 37 CFR ' 1.114 filed after appeal has been taken, but prior to a decision on the appeal, Awill be treated as a request to withdraw the appeal and to reopen prosecution of the application before the examiner.@

Accordingly, it is

ORDERED that the appeal filed March 11, 2003 is dismissed. The application is being returned to the Examiner for further action as may be appropriate.

If there are any questions pertaining to this dismissal, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

clj

CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110