

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JOSE MENNECART and STEPHANE GRELLIER

Appeal 2008-0079
Application 10/450,872
Technology Center 2100

Decided: August 7, 2008

Before LANCE LEONARD BARRY, JAY P. LUCAS, and ST. JOHN COURTENAY III, *Administrative Patent Judges*.

BARRY, *Administrative Patent Judge*.

ORDER REQUIRING THE APPELLANTS
TO BRIEF AN ADDITIONAL MATTER

I. STATEMENT OF THE CASE

A Patent Examiner rejected claims 1-13, 16, and 17. The Appellants appeal therefrom under 35 U.S.C. § 134(a). We have jurisdiction under 35 U.S.C. § 6(b).

II. AUTHORITIES

An Appeal Brief shall include "[a]n appendix containing copies of any evidence submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title or of any other evidence . . . relied upon by appellant in the appeal. . . ."

37 C.F.R. § 41.37(c)(1)(ix)(2006).¹ "Because the content of Internet sites is often transient," *The Blue Book: A Uniform System of Citation* R.18.2.3(f), at 158 (Columbia Law Review Ass'n et al. eds., 18th ed. 2005), including copies of evidence therefrom is paramount. "Each publication listed in an information disclosure statement must be identified by publisher, author (if any), title, relevant pages of the publication, *date*, and place of publication." 37 C.F.R. § 1.98(b)(5)(emphasis added).

The date of publication supplied must include at least the month and year of publication, except that the year of publication (without the month) will be accepted if the applicant points out in the information disclosure statement that the year of publication is sufficiently earlier than the effective U.S. filing date and any foreign priority date so that the particular month of publication is not in issue.

MPEP § 609.04(a) I (8th ed. Rev. 5 Aug. 2006).²

¹ We cite to the version of the Code of Federal Regulations in effect at the time of the First Amended Appeal Brief. The current version includes the same rules.

² We cite to the version of the Manual of Patent Examining Procedure in effect at the time of the First Amended Appeal Brief. The current version includes the same rules.

III. ANALYSIS

Here, the Appellants rely on a definition from an Internet site, viz., "<http://en.wikipedia.org/wiki/Cursor%28databases%29>" (1st Amended Br. 10.) They fail, however, to provide a copy of the definition. Likewise, their *Evidence appendix*, (*id.* 27), omits mention thereof. Furthermore, the citation to the definition, *supra*, omits a date.

IV. CONCLUSION

Because of the aforementioned omissions, we are persuaded that "[t]he appeal is manifestly not ready for a decision on the merits." *Ex parte Braeken*, 54 USPQ2d 1110, 1112 (BPAI 1999).

V. ORDER

"We decline to substitute our speculation for the greater certainty that should come from the Appellants." *Ex Parte Dietz*, No. 2007-2386, 2008 WL 696147, at *2 (BPAI 2008). More specifically, the Appellants must provide a copy of the definition on which they rely and must submit a substitute *Evidence Appendix* that cites the definition including its date of publication.

Under 37 C.F.R. § 41.50(d), we give the Appellants a non-extendable time period of thirty days within which to respond to this order. Failure to comply with the order within that time may result in the *sua sponte* dismissal of this appeal. 37 C.F.R. § 41.50(d).

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No time for taking any action connected with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv).

ORDERED; 37 C.F.R. § 41.50(d)

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