

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

TRIANAFYLLOS TAFAS,
Plaintiff,
v.
JON W. DUDAS, in his official capacity as
Under Secretary of Commerce and
Director of the United States Patent and
Trademark Office
and
The UNITED STATES PATENT AND
TRADEMARK OFFICE,
Defendants.

CIVIL ACTION NO. 1:07cv846

DEFENDANTS' PARTIAL MOTION TO DISMISS

Defendants United States Patent and Trademark Office and Jon W. Dudas, in his official capacity as Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office, respectfully move to dismiss the majority of the claims in Plaintiff's First Amended Complaint for Declaratory and Injunctive Relief and Petition for Review of Rulemaking.1 Specifically, Defendants seek dismissal of:

- Count One, ¶¶ 56(a), (b), (c), (d), (e), (f), (g), (h), (j), (k), (l), (m), and (n) for lack of jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1);
Count Two, in its entirety, for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6); and

1 The USPTO respectfully requests leave to have its forthcoming summary judgment motion substitute for an Answer with respect to any claims that the Court does not dismiss.

• Count Three, ¶¶ 71(c), (e), and (f), for lack of jurisdiction pursuant to Federal Rule of Civil Procedure 12(b)(1).

Defendants' arguments are set out in the accompanying Memorandum in Support of Defendants' Motion to Dismiss.

Respectfully submitted,

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UNITED STATES ATTORNEY

By: _____
/s/
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United States Patent and Trademark Office