

EXHIBIT 5
Part 1 of 5

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

TRIANTAFYLLOS TAFAS,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 1:07cv846
)	
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.)	
)	

NOTICE OF FILING OF ADMINISTRATIVE RECORD

PLEASE TAKE NOTICE of the filing of the certified administrative record for the final rules published by the United States Patent and Trademark Office at 72 Fed. Reg. 46716 (Aug. 21, 2007). In view of the size of the administrative record, Defendants requested and received permission from the Clerk's Office to file the record in paper form. Appended hereto are the Certification of the Administrative Record by the United States Patent and Trademark Office and the Index of Administrative Record.

Respectfully submitted,

CHUCK ROSENBERG
UNITED STATES ATTORNEY

By: 
LAUREN A. WETZLER
Assistant United States Attorney

Attorney for All Defendants
Justin W. Williams U.S. Attorney's Building
2100 Jamieson Avenue
Alexandria, Virginia 22314
Tel: (703) 299-3752
Fax: (703) 299-3983
Lauren.Wetzler@usdoj.gov

OF COUNSEL:
James A. Toupin
General Counsel

Stephen Walsh
Acting Deputy General Counsel
and Solicitor

William Covey
Deputy General Counsel

William G. Jenks
Janet A. Gongola
William LaMarca
Associate Solicitors

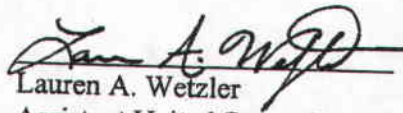
Jennifer M. McDowell
Associate Counsel

United States Patent and Trademark Office

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2007, I caused the foregoing, with attachments, and the administrative record in paper form and on CD-ROM, to be hand-delivered to:

Joseph D. Wilson, Esq.
KELLY DRYE & WARREN LLP
3050 K Street, NW, Suite 400
Washington, DC 20007-5108
jwilson@kelleydrye.com



Lauren A. Wetzler
Assistant United States Attorney
Attorney for All Defendants
Justin W. Williams United States Attorney's Building
2100 Jamieson Avenue
Alexandria, Virginia 22314
Tel: (703) 299-3752
Fax: (703) 299-3983
Lauren.Wetzler@usdoj.gov

**UNITED STATES DISTRICT COURT
THE EASTERN DISTRICT OF VIRGINIA
(Alexandria Division)**

TRIANTAFYLLOS TAFAS, Plaintiff,)	
)	
v.)	CIVIL ACTION: 1:07-CV-00846-JCC-TRJ
)	
JON W. DUDAS, in his official capacity as Undersecretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, et al., Defendants.)	

**CERTIFICATION OF THE ADMINISTRATIVE RECORD
BY THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Declaration of Jennifer M. McDowell

I, Jennifer M. McDowell, hereby declare:

1. I am employed by the United States Patent and Trademark Office (“USPTO”).
During the period from January 3, 2006 through August 21, 2007, I was an attorney in the USPTO’s Office of General Counsel, Office of General Law.
2. As an attorney in the Office of General Law, I was responsible for the administrative clearance of Agency rule makings.
3. In connection with these duties, I have knowledge of the record-keeping practices of the USPTO relating to rulemakings.
4. The above-referenced action is a challenge to USPTO final rules, “Changes to Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications.” 72 Fed. Reg. 46716 (Aug. 21, 2007).

5. The documents listed in the accompanying Index of Administrative Record and filed with the Court are, to the best of my knowledge, a true, correct and complete copy of the administrative record in this matter.
6. Privileged documents reflecting internal agency deliberations, attorney-client communications, and attorney work product have been excluded from the administrative record. See e.g., Nat'l Courier Ass'n v. Bd. Of Governors of Fed. Reserve Sys., 516 F.2d 1229, 1241-43 (D.C. Cir. 1975); Amfac Resorts, L.L.C. v. U.S. Dep't of the Interior, 143 F. Supp. 2d 7, 13 (D.D.C. 2001). Where only a portion of a document is privileged, the privileged information has been redacted. Any unpublished patent applications or patent application identifiers that were utilized or considered during the rule making process have been excluded or redacted pursuant to 35 U.S.C. § 122. Additionally, information protected by the Privacy Act of 1974, as amended, 5 U.S.C. § 552, has been redacted from the record.

I certify under penalty of perjury that the foregoing is true and correct.

Dated: October 5, 2007


JENNIFER M. MCDOWELL

INDEX OF ADMINISTRATIVE RECORD

Tafas v. Dudas, et al. Civil Action No. 1:07-cv-00846-JCC-TRJ

I. NOTICE OF PROPOSED RULEMAKING		
DATE	DESCRIPTION	BATES NO.
01/03/06	71 Fed. Reg. 61 – Changes to Practice for the Examination of Claims in Patent Applications	A00001-A00009
01/03/06	71 Fed. Reg. 48 – Changes to Practice for Continuing Applications, Requests for Continued Examination Practice, and Applications Containing Patentably Indistinct Claims	A00010-A00023
01/24/06	1302 O.G. 1329 - Changes to Practice for the Examination of Claims in Patent Applications	A00024-A00030
01/24/06	1302 O.G. 1318 - Changes to Practice for Continuing Applications, Requests for Continued Examination Practice, and Applications Containing Patentably Indistinct Claims	A00031-A00042
II. USPTO PRESENTATIONS		
DATE	DESCRIPTION	BATES NO.
02/01/06	USPTO Request For Public Input: Strategic Planning (Chicago Town Hall Meeting)	A00043-A00127
02/28/06	The State Of Patent Examination – Background For Rule Proposals Presentation to Open House, University of California at Berkeley (Town Hall Meeting)	A00128-A00190
03/22/06	Presentation by Peggy Focarino, Deputy Commissioner for Patent Operations (Houston Town Hall Meeting)	A00191-A00252
04/25/06	Town Hall Meeting on Patent Claims and Continuation Practice (Alexandria, VA)	A00253-A00273
01/22/07	Present & Future Perspectives of the USPTO – Corporate Patent Update 2007 – January 22, 2007 by John Love, Deputy Commissioner for Patent Examination Policy	A00274-A00286

01/24/07	Present & Future Perspectives of the USPTO – Cleveland Intellectual Property Law Association by John Love, Deputy Commissioner for Patent Examination Policy	A00287-A00299
01/26/07	Recent & Planned Changes to Patent Practice – AIPLA Mid-Winter Institute Relations with the USPTO Committee by John Doll, Commissioner for Patents	A00300-A00316
02/16/07	Present & Future Perspectives of the USPTO – Utah IP Summit by John Love, Deputy Commissioner for Patent Examination Policy	A00317-A00333
03/09/07	Present & Future Perspectives of the USPTO – Dayton Intellectual Property Law Association by John Doll, Commissioner for Patents	A00334-A00355
03/15/07	Present & Future Perspectives of the USPTO – Government Intellectual Property Law Association by John Doll, Commissioner for Patents	A00356-A00377
04/02/07	The State Bar of California Intellectual Property Section Visit to the USPTO – An Open Dialogue with Patents	A00378-A00379
05/00/07	Present & Future Perspectives of the USPTO – 23 rd Annual Joint Patent Practice Seminar May 2007 by John Love, Deputy Commissioner for Patent Examination Policy	A00380-A00401
05/03/07	Changes To Practice for Continued Examination Filings, Patent Applications Containing Patentably Indistinct Claims, and Examination of Claims in Patent Applications – NIH Briefing by John Doll, Commissioner for Patents	A00402-A00408
05/29/07	Present & Future Perspectives of the USPTO – Northern Virginia Patent Lawyers Club by John Love, Deputy Commissioner for Patent Examination Policy	A00409-A00428
06/04/07	Patent Reform by John Doll, Commissioner for Patents	A00429-A00438
06/04/07	Present & Future Perspectives of the USPTO – San Diego Intellectual Property Law Association by John Love, Deputy Commissioner for Patent Examination Policy	A00439-A00462
06/12/07	Patent Statistics and Strategic Initiatives – Association of Corporate Counsels by John Doll, commissioner for Patents	A00463-A00476
07/17/07	Developments at the U.S. Patent & Trademark Office – George Mason University School of Law, Hot Topics in Patent Law by John Doll, Commissioner for Patents	A00477-A00493
07/17/07	Present & Future Perspectives of the USPTO – National Association of Patent Practitioners by John Love, Deputy Commissioner for Patent Examination Policy	A00494-A00517

Undated	"The Patent Office Speaks" – The District of Columbia Bar – Intellectual Property Section by John Doll and John Love	A00518-A00539
Undated	Hot Topics in Patents at the USPTO – ABA- Intellectual Property Law Section – 22 nd Annual Intellectual Property Law Conference by John Doll, Commissioner for Patents	A00540-A00557
Undated	Patents and the USPTO Strategic Plan by John Doll, Commissioner for Patents	A00558-A00590

**III. PUBLIC COMMENTS FOR
71 FED. REG. 61 (CLAIMS)**

DATE	DESCRIPTION	BATES NO.
01/04/06	Comments from Jeffrey Sainio	A00591
01/04/06	Comments from Alun Palmer	A00592
01/04/06	Comments from Judge Cornish	A00593-A00595
01/05/06	Comments from Barry Dove	A00596-A00597
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01/06/06	Comments from Mark Harrington	A00599-A00600
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