Commissioner of Patents and Trademarks
Patent and Trademark Office (P.T.O.)

IN RE THOMAS P. ATHRIDGE, JR.
October 2, 1987

Thomas P. Athridge, Jr. Esq.

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Bethesda, Maryland 20816

Donald W. Peterson

Deputy Commissioner of Patents and Trademarks

Decision

Thomas P. Athridge, Jr., an attorney presently employed by the Federal Trade Commission, petitioned the Commissioner requesting that his name be placed on the register of attorneys and agents entitled to practice before the Patent and Trademark Office (PTO) in patent cases. His petition, requesting registration with an inactive designation until such time as he terminated his federal employment, was denied in view of 37 CFR § 10.6(d). In re Athridge, 230 USPQ 470 (Comm'r Pat. 1986). Mr. Athridge then sought judicial review of the Commissioner's decision in the United States District Court for the District of Columbia. In pursuing review of the decision, petitioner asked the court to grant him registration with active status, rather than with an inactive designation as he originally sought in his petition to the Commissioner.

In a decision rendered February 17, 1987, the court determined that the Commissioner's actions in denying registration were arbitrary, capricious and contrary to law, and consequently, that Mr. Athridge's name should be placed on the PTO register with an inactive designation. Athridge v. Quigg, 655 F.Supp. 779, 3 USPQ 2d 1391 (D.D.C.1987). The court did not decide the lawfulness of the practice of designating a registrant as inactive. Hence, the "inactive" portion of § 10.6(d) was not affected by the Court's ruling. 655 F.Supp. at 782 n. 3, 3 USPQ 2d 1393 n. 3.

Upon further consideration in view of the court's decision with respect to registering qualified federal employees with an inactive designation, the Commissioner has sua sponte determined that it is appropriate to register Mr. Athridge without an "inactive" designation. In addition, the Commissioner intends in the near future, subject to approval by the Department of Commerce and the Office of Management and Budget, to propose a change in § 10.6(d) to eliminate the requirement that a registered attorney, who is a Government employee, be endorsed as "inactive" during service with the Government. Accordingly, pursuant to 37 CFR § 10.170(a), the Commissioner hereby waives as to Thomas P. Athridge, Jr., the requirement in Rule 10.6(d) that individuals (other than those whose official duties require the preparation and

prosecution of applications for patent) be endorsed as inactive on the register during the period of any employment by the United States, and orders that the name, Thomas P. Athridge, Jr., be listed on the register of attorneys and agents entitled to practice before the PTO in patent cases.

4 U.S.P.Q.2d 1656

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