



possible, with the help of petitioner. The file currently contains the following documents:

(1) a copy of Petitioner's Application form for Registration to Practice Before the United States Patent and Trademark Office, including a copy of the signed Oath or Affirmation and admission forms for the examination; (2) a copy of the May 15, 1998, letter by Harry Moatz; (3) a copy of a June 26, 1998, petition to the Commissioner under 37 C.F.R. § 1.181; (4) a copy of a letter dated February 4, 1999, inquiring as to the status of Petitioner's application to sit for the Patent Agent Examination; (5) a July 16, 1999, letter from Petitioner referencing enclosed documents; (6) copies of affidavits from \_\_\_\_\_ and \_\_\_\_\_; and (7) a letter dated August 16, 1999, forwarding copies of documents originally submitted including: Mr. Moatz's letter, a copy of Petitioner's \_\_\_\_\_ transcript, copies of the original petition and oath for the examination application, copies of signed affidavits from \_\_\_\_\_ and \_\_\_\_\_, an unsigned copy of an affidavit from \_\_\_\_\_, copies of four issued U.S. Patents ( \_\_\_\_\_ ), which Petitioner states were substantially written by him under supervision, and a copy of a technical manual and schematic written and designed by Petitioner.

### **Opinion**

Unfortunately, response to the petition has been delayed due to the need to reconstruct Petitioner's file. However, the petition may not be considered at this time because under 37 C.F.R. § 10.2(c) only a "final decision of the Director refusing to register an individual under [37 C.F.R.] § 10.9 or § 10.14(c) . . . may be reviewed by petition to the Commissioner." A letter of a Staff Attorney is not a final decision of the Director of OED refusing to register Petitioner.

A letter by a staff attorney evaluating an application is merely an initial determination that is subject to a final decision by the Director if such a decision is requested.

In sum, there is no final decision by the Director, within the meaning of 37 C.F.R. § 10.2(c), and therefore, there can be no proper petition to the Commissioner pursuant to that regulation. Accordingly, the petition is dismissed as premature and this matter is remanded to the Director for appropriate action, which may include issuance of a final decision.

On remand, the Director should consider all of the material presently in Petitioner's file in rendering a final decision.

**ORDER**

Upon consideration of the petition to the Commissioner, it is ORDERED that the petition to the Commissioner is dismissed, and it is FURTHER ORDERED that this matter be remanded to the Director for further appropriate action.

AUG 24 1999



Q. Todd Dickinson  
Acting Assistant Secretary of Commerce and  
Acting Commissioner of Patents and Trademarks

cc: