IN RE APPLICATION OF TERRY LEE TORRES
Application No. 18/973,067
Filing Date: December 8, 2024
Confirmation No.: 9733

COVER LETTER FOR SUPPLEMENTAL SUBMISSION TO PETITION FOR RECONSIDERATION

February 17, 2026

To the Commissioner for Patents:

Applicant respectfully submits the enclosed SUPPLEMENTAL SUBMISSION TO PETITION FOR RECONSIDERATION in the above-referenced application.

This supplemental submission supplements and supports the Petition for Reconsideration filed February 10, 2026, which challenged the January 30, 2026 Final Determination assessing a $4,122 penalty and suspending prosecution.

The supplemental submission:

1. Corrects a misquotation in the February 10, 2026 petition and demonstrates that the misquotation itself evidences the ambiguity that caused Applicant's confusion;

2. Strengthens existing arguments with formal citation to the Plain English Doctrine (Federal Aviation Admin. v. Robertson, 422 U.S. 255 (1975));

3. Raises an additional ground for vacating the suspension: lack of statutory authority to suspend prosecution after payment of the required fee deficiency; and

4. Highlights additional admissions from the February 2, 2026 conversation with Office of Petitions representative Rachel that further establish procedural deficiencies.

TIME-SENSITIVE REQUEST FOR EXPEDITED CONSIDERATION

The application is scheduled for mandatory publication on February 26, 2026, pursuant to 35 U.S.C. § 122(b)(1)(A). Given this imminent deadline and the suspension currently in effect, Applicant respectfully requests that this supplemental submission be considered immediately and that any response or decision issue prior to February 24, 2026.

CONTACT INFORMATION

All correspondence regarding this matter should be directed to:

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Applicant respectfully urges the Commissioner to grant administrative relief and avoid the necessity of judicial proceedings.

Respectfully submitted,

/Terry Lee Torres/
Terry Lee Torres, Pro Se Applicant
Date: February 17, 2026
ENCLOSURE: Supplemental Submission to Petition for Reconsideration

IN RE APPLICATION OF TERRY LEE TORRES
Application No. 18/973,067

SUPPLEMENTAL SUBMISSION TO PETITION FOR RECONSIDERATION

To the Commissioner for Patents:

Applicant submits this supplemental submission to: (1) correct a misquotation that itself evidences ambiguity; (2) add formal citation to the Plain English Doctrine; (3) raise lack of statutory authority for suspension; and (4) highlight additional admissions from the February 2, 2026 conversation establishing procedural deficiencies.

Given the February 26, 2026 publication deadline, Applicant requests expedited consideration with decision before February 24, 2026.

I. CORRECTION OF MISQUOTATION - EVIDENCE OF AMBIGUITY

The Petition for Reconsideration quoted the Official Gazette as stating a reply "may include a good faith explanation and sufficient evidence."

This is incorrect. Applicant apologizes. The correct language states:

"The USPTO will evaluate any response...on a case-by-case basis...For example, if the response includes an explanation supported by evidence that the false assertion or certification was made in good faith, the USPTO will take into consideration the reasonableness of any steps taken...and whether the entity...has exhibited a pattern of making false assertions or certifications." 1536 OG 204, p.3.

However, this misquotation proves the language's ambiguity. Applicant read "For example, if the response includes..." and interpreted it as "may include" (discretionary) rather than "must include" (mandatory). Even when attempting to quote the Gazette accurately for the petition—months after the penalty, without time pressure—the conditional structure remained so ambiguous that Applicant mischaracterized it.

This demonstrates: (1) the language confused even a careful reader; (2) a pro se applicant could not parse the conditional structure; (3) the difference between "may" and "if...includes" was not apparent; and (4) compliance with an uncited document that proves incomprehensible even upon later reading is impossible.

II. PLAIN ENGLISH DOCTRINE VIOLATION

When agencies use ordinary language without defining technical requirements, applicants may interpret it according to plain meaning. Federal Aviation Admin. v. Robertson, 422 U.S. 255, 261 (1975).

The Show Cause Order required "an explanation supported by sufficient evidence that the certification was made in good faith" but did not:
- Define "sufficient evidence"
- Reference 37 CFR 11.18(b)(2) or "reasonable inquiry"
- Cite the July 8, 2025 Official Gazette
- State that documentation of inquiry steps was required

In plain English, "sufficient evidence" means "enough information to support the claim." Applicant provided a sworn explanation of the first-time error, the reasonable belief about continuation status, and immediate correction—evidence

sufficient under plain English.

The Director rejected this because it "does not give any details regarding a reasonable inquiry" and "does not show any steps were taken"—requirements appearing nowhere in the order's plain language.

An agency cannot use plain language then penalize for not meeting undisclosed technical standards. Robertson, 422 U.S. at 261. The order used plain language. Applicant interpreted it in plain English. The Director applied an undisclosed technical definition. This violates the Plain English Doctrine and due process.

III. THE GAZETTE REMAINED AMBIGUOUS EVEN UPON LATER DISCOVERY

Because the Show Cause Order did not cite the Official Gazette, Applicant interpreted "sufficient evidence" in plain English when responding November 18, 2025.

After penalty, while preparing the petition, Applicant found the Gazette for the first time. Even then, the language proved too ambiguous to quote correctly—hence the misquotation in Section I.

The Gazette's language created multiple reasonable interpretations for a pro se applicant:
- "Case-by-case basis" could mean individual assessment without rigid requirements
- "For example" could mean illustrative (not exclusive)
- "If the response includes" could mean evidence is optional or mandatory
- "Will take into consideration" could mean weighing factor or threshold

USPTO employee Rachel, reviewing the Show Cause Order on February 2, 2026, agreed: "I do think language could be clear in the notice itself of what's required." When asked what evidence would satisfy, Rachel responded: "I'm really not sure."

If USPTO's own personnel processing these orders daily cannot explain requirements and agree language "could be clear," a pro se applicant cannot be penalized for confusion.

The void-for-vagueness doctrine protects individuals without legal training from ambiguous standards. Grayned v. City of Rockford, 408 U.S. 104, 108-09 (1972). Here:
- The order never defined "sufficient evidence"
- The Gazette (uncited in the order) remained ambiguous even upon later reading
- USPTO employees admitted uncertainty
- Pro se applicant could not determine requirements

The Director applied standards from an uncited, incomprehensible document. Even the Show Cause Order referencing these standards is unclear (Rachel: "language could be clear in the notice itself"). An agency cannot enforce standards from documents it fails to cite, particularly when those documents prove incomprehensible even to agency employees.

IV. NO STATUTORY AUTHORITY FOR POST-PAYMENT SUSPENSION

The Show Cause Order identified $1,412 in underpaid fees. Applicant paid this in full November 18, 2025. The only unpaid amount is the disputed $4,122 penalty.

Statutory suspension authority is limited to "fees required by this title":
- 35 U.S.C. § 111(a)(3)

- 35 U.S.C. § 132
- 37 C.F.R. § 1.17

A penalty is not a "required fee." Penalties are collected through debt procedures (31 U.S.C. § 3711), not suspension of statutory rights.

The Gazette states suspension continues until "both the fee deficiency and fine are resolved," but the Gazette is a policy statement, not a statute. It cannot expand suspension authority beyond Congressional grants. Louisiana Pub. Serv. Comm'n v. FCC, 476 U.S. 355, 374 (1986).

The required fee is paid. Continued suspension to compel payment of a disputed penalty lacks statutory foundation and conflicts with 35 U.S.C. § 122(b)(1)(A)'s mandatory publication statute.

V. ADDITIONAL ADMISSIONS FROM FEBRUARY 2, 2026

The February 2, 2026 conversation with Rachel (Exhibit I) contains four critical admissions:

A. Employee Agreement Notice Is Deficient
"I completely understand everything you're saying and I do think language could be clear in the notice itself of what's required."

Rachel affirmatively agreed the notice was inadequate—an admission against interest by USPTO personnel.

B. No Independent Review
"It'll be the same team. The same people who have issued this combined notice and show cause order...It's all being handled by the fraud mitigation team."

The same team that imposed the penalty reviews challenges to it. This structural bias violates due process. Withrow v. Larkin, 421 U.S. 35, 47 (1975).

C. Program Is "Relatively New"
"I do know these are relatively new, at least from what I have since I've been working here."

An Office of Petitions employee characterizing the program as "relatively new" validates that standards were not established when Applicant certified December 2024.

D. Validation of Institutional Blackout

When Applicant described systematic information withholding across multiple calls—stating "Nobody could talk about them...It's not permissible...I'm sending you thousands of dollars, right? And I'm not allowed to know what's happening"—Rachel responded: "Right."

This admission is significant because:

First, Rachel validated eight specific manifestations of information withholding as accurate institutional policy, not individual employee confusion.

Second, Applicant stated "It's not permissible"—directly referencing the institutional directive Rep. Bousono. described as "the direction of the office." Rachel's "Right" corroborates institutional policy.

Third, under Federal Rule of Evidence 801(d)(2)(D), Rachel's statement is an admission by the agency itself.

Fourth, this validates the pattern explaining why December 1 "correct" confirmation became the sole source of guidance.

VI. THE INSTITUTIONAL BLACKOUT VALIDATES DECEMBER 1 RELIANCE

The administrative record contains five employee contacts:

1. November 7 (Michele): "I cannot answer those questions"
2. December 1 (Anonymous): "Everything is, it appears to be correct"
3. January 9 (Bousano): "direction of the office is that we are trying to not...entertain too many conversations"
4. January 9 (Ombudsman): "We don't have authority to override petitions"
5. February 2 (Rachel): "Right" [validating institutional blackout]; "I'm really not sure" [what would satisfy]

Four of five contacts refused or were unable to help. One provided assistance. Rachel's "Right" validates this was institutional policy.

Because institutional policy withheld information, the December 1 "correct" confirmation became Applicant's sole guidance. Reasonable reliance on the only information provided—when all other sources refuse assistance due to institutional directive—creates estoppel. Heckler v. Community Health Services of Crawford County, Inc., 467 U.S. 51, 60 (1984).

An agency cannot withhold information necessary for compliance, penalize for non-compliance, then admit information withholding was institutional policy. This violates fundamental fairness.

VII. CONCLUSION

The record establishes:

1. Applicant's misquotation proves the language was genuinely ambiguous to a pro se applicant.

2. The Plain English Doctrine prohibited applying undisclosed technical standards to plain language.

3. The Gazette remained incomprehensible even upon later discovery.

4. USPTO lacks statutory authority for post-payment suspension; the penalty is not a "required fee".

5. Rachel's admissions confirm inadequate notice, no independent review, a "relatively new" program, and institutional blackout.

6. The institutional blackout made December 1 "correct" the only guidance, creating reasonable reliance and estoppel.

The penalty should be vacated and prosecution resumed.

Respectfully submitted,

/Terry Lee Torres/
Terry Lee Torres
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Date: February 17, 2026