

NOTE: This order is nonprecedential.

**United States Court of Appeals  
for the Federal Circuit**

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**IN RE THOMAS L. DISTEFANO, III**

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2014-1130

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Appeal from the United States Patent and Trademark  
Office, Patent Trial and Appeal Board in No. 10/868,312.

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**ON MOTION**

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Before NEWMAN, RADER, and HUGHES, *Circuit Judges*.  
NEWMAN, *Circuit Judge*.

**O R D E R**

The Deputy Director of the United States Patent and Trademark Office (PTO) moves to waive the requirements of Federal Circuit Rule 27(f) and to remand this case to the PTO for further proceedings before the agency. Thomas L. DiStefano III opposes.

The PTO concedes that the Board erred in failing to designate its decision as a new ground of rejection and that DiStefano will be able to request rehearing before the Board or reopen prosecution on remand as to the new ground of rejection.

Accordingly,

IT IS ORDERED THAT:

- (1) The motion is granted. This appeal is remanded for further proceedings consistent with this order.
- (2) Each side shall bear its own costs.

FOR THE COURT

/s/ Daniel E. O'Toole

Daniel E. O'Toole

Clerk

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ISSUED AS A MANDATE: June 4, 2014