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Mail Stop Comments — Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Attn: Nicole Dretar Haines

Re: Crowdsourcing Comments

Dear Ms. Haines:

I commend the U.S. Patent and Trademark Office (USPTO) for opening public comments regarding the use of crowdsourcing and third-party pre-issuance submissions. Allowing these will undoubtedly result in higher quality patents and less frivolous litigation. While the tools have been and will continue to be useful in the utility patent space, I wanted to express concern that they are not available to design patent applications.

As I submitted on March 14, 2014 for the last design patent-related comment period, the application process for utility patents is much more transparent than design. Crowdsourcing and meaningful opportunity for pre-issuance third party submissions will benefit all types of patents, as well as bring more transparency to the design patent process in particular. Design patents currently are not published prior to grant thus third party submissions, while technically permitted, are very unlikely to be filed as the public does not have knowledge of the pending application.

Requiring pre-grant publication and thus allowing for meaningful pre-issuance third party submissions for design patents will provide greater transparency for the U.S. patent application process as a whole, and also help the lagging design patent process reach closer equilibrium with the utility patent process.

Although the USPTO cannot open design patents specifically for pre-grant publication without a change in the law, design patent applications filed under the Hague Agreement and processed by the USPTO are published. For these design patents, crowdsourcing as we use it currently will be effective for soliciting pre-issuance third party submissions. The remaining

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design patents may be less strong because they do not have pre-grant publication or crowdsourcing.

The U.S. must maintain its leadership position with a strong patent system that issues high-quality patents. Pre-issuance third party submissions will keep our system healthy and competitive.

Again, I would like to applaud the USPTO for considering pre-issuance third party submissions for patents and utilizing crowdsourcing. I encourage the USPTO to make this the first of many steps to make our system – particularly design patents – more open and transparent, ultimately making the U.S. patent system stronger. I also encourage the USPTO to support changes in the law that will open pre-grant publication, and therefore crowdsourcing, to design patents.

Regards,



Julie A. Hopkins