

From:

Sent: Saturday, February 20, 2010 6:24 PM

To: patent_quality_comments

Subject: RE: PTO Request for Comments - Patent Examination Quality

Director Kappos:

Please find below brief comments in response to the USPTO request for comments on patent examination quality. These represent my personal views and do not represent the views of Monsanto Company.

Restriction requirements. These do not always meet both the “distinctness” and “burden” requirements. A useful metric may be the proportion of petitions to withdraw a restriction requirement decided in favor of the applicant. The metric should be tracked at least by art unit and possibly by individual examiner.

Ombudsman. We have had encouraging results working with at least one quality assurance specialist who helped to resolve issues where direct discussions with the examiner and/or SPE had been unproductive. This is relevant to the PTO’s ombudsman proposal insofar that such a person could certainly help to move a case forward. However, in order for an ombudsman position to be successful, there needs to be in place metrics that allow the tracking of poorly performing individual examiners and art units. For the sake of neutrality/impartiality, the ombudsman should be someone outside of the chain of command of the patent group (but within the USPTO). The ombudsman program should provide a safe route for anonymous feedback to avoid applicants’ potential fear of “retaliation” from the examining corps.

Sincerely,
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