

From: Brad Pedersen
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To: AC6/Comments
Subject: Comments on Deferred Examination for Patent Applications

Thank you for the opportunity to comment on the USPTO's proposal to adopt a deferral of examination system.

In general, I am not in favor of adoption of a deferral examination system as it seems to be a temporary solution that will end up detracting from more comprehensive and effective solutions to the challenges presented by the current backlog of patent applications and work against the USPTO's goal of more expedient examination from a public notice perspective.

One significant concern about deferred applications is the uncertainty created in the market for competitors trying to invent around the patents of others and the potential that unexamined applications will stifle innovation. With the increasing importance placed by business executives and investors in understanding the risks associated with third party patents, adopting a system that would inherently increase the inability to accurately evaluate such risks is not desirable with respect to the efficient and effective investment in patent rights.

If deferred examination were to be implemented, it is critical that every request for deferral must in turn reduce or eliminate patent term adjustment for the corresponding patent application and also eliminate the possibility of collecting provisional damages associated with the published application.

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