

RA-TECH

April 27, 2001

Attn: Mr. Jon P. Santamauro
Director of the United States Patent and Trademark Office
Box 4
USPTO
Washington, DC 20231
FAX (703)305-8885

RE: Request For Comments on the International Effort to Harmonize the Patent Laws

Dear Mr. Santamauro:

Thank you for this opportunity.

Regarding the specific 17 points of consideration, the USPTO negotiators seem to be handling those matters quite well. I see no alarming concerns.

However, may I call your attention to some important general considerations. There are two areas where the patent system fails to adequately serve independent inventors:

1. The cost of obtaining and maintaining patents, defending against infringers and other challenges has escalated to the point that an inventor must raise at least seed capital before filing a patent application, especially if the invention has a high degree of merit and potential. This is backwards. The intent of the Patent System is to protect inventors so they can proceed to raise capital to develop and commercialize inventions without being pirated. No inventor should be denied patent protection for lack of money. However, the Patent System, especially if an inventor seeks to patent an invention *internationally*, forces him out of the system if he is not financially well off or does not have strong financial backing. In addition, the difficulties and inconsistencies of the system make it very difficult for an inventor to raise the needed capital. The expenses of the Patent System should be paid for by Society in general combined with those who have *already profited by it*, NOT by struggling inventors seeking its protection.
2. The life of patents issued to independent inventors should not begin until commercial sale of products under respective patents is first achieved. The Patent System can never be fair unless this is enacted. In the past, inventors could simply drag out the prosecution of the application and delay the issuance of the patent until marketing is ready to begin, but now that the patent term begins with filing, the independent inventor is at an extreme disadvantage by not having capital and resources to rapidly commercialize the invention. Delaying the start of patent term until marketing begins would allow the independent inventor whatever amount of time needed to develop and commercialize the invention; and if anyone, such as a competitor or potential licensee, becomes impatient, they can help the inventor to speed up his commercialization process. In this way, no inventor would be ignored unless his invention was commercially worthless; in which case the patent term would never need to begin nor expire. Of course, rules need to be enacted to prevent anyone from deliberately delaying or withholding the commercialization of an invention.

Improvements to the Patent System are surely needed, especially in these two areas.

Very best regards and best wishes,


Richard C. Raney