

From: kswallow [REDACTED]
Sent: Tuesday, August 02, 2011 10:21 AM
To: ai_implementation
Subject: Comment on Patent Legislation

Dear Sirs,

I am the holder of a patent that I granted about 12 years ago, and I am currently working on another patent that will likely be filed within the next week or so. I am writing to express some concerns that I have regarding proposed changes to the patent laws.

First and foremost, I am vehemently opposed to the "first to file" policy. Just because someone is faster in preparing an application and filing it with the USPTO does not necessarily make them the actual inventor. For example, let's say the true inventor has actual evidence of research and development for a patentable idea, but someone else finds out about the final result of this effort and files for a patent before the actual inventor is able to do so. How would it be fair for the actual inventor to be left with nothing, while someone else reaps all of the benefits?

A "first to file" policy will most certainly result in poorly written applications that will end up turning good ideas into unpatentable ideas, simply because the applications will most certainly be poorly written. Once an application has been turned in, the inventor cannot add any new material, and so if anything is left out or overlooked there is no recourse for rectifying the oversight. It takes time to insure that an application has been properly written. I can attest to the amount of time it takes to write an effective patent application, and I would be extremely anxious throughout the entire process if it were possible for someone else to steal the idea and file ahead of me.

The "first to file" policy also favors large corporations over the independent inventor because large organizations can use internal resources to evaluate and develop an idea, which can compress the amount of time necessary to develop the idea and file for a patent. Large organizations can also better afford the resources necessary to create and file an application in as little time as possible. A "first to file" policy will make it even more difficult for independent inventors, because they will be even less able to safely use outside resources during the development phase, and they cannot afford to pay for faster service from a patent attorney.

I think it would be a valid argument to state that a "first to file" policy will make the U.S. less competitive in the world economy. The USPTO will most certainly experience an increased workload reviewing poorly written and hastily prepared applications. And due to the haste with which they are prepared, a higher percentage of applications will not be granted approval. The net result will be an increased workload with fewer actual patents being granted.

And finally, I would like to say something in regard to funding for the USPTO. It is ridiculous that it takes so many months if not years for an application to be reviewed. If the intent is to improve the competitiveness of the U.S., then it would be in our own best interest to speed up the process for reviewing applications. And the only way to do this is to increase the funding for the USPTO. More money means more examiners, which will result in faster throughput. And less money means fewer examiners, which will result in slower throughput.

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