

Sent: Monday, August 02, 2010 4:20 PM
To: 3-tracks comments
Subject: Comments on Enhanced Examination Timing Control Initiative

**Before the
United States Patent and Trademark Office
United States Department of Commerce
Alexandria, VA 22313**

In the Matter of)	
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Enhanced Examination Timing Control Initiative; Notice of Public Meeting)	Docket No.: PTO-P-2010-0035
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To the United States Patent and Trademark Office

Additional Comments from Nickolaus E. Leggett

I am an individual independent and employed inventor holding three U.S. Patents. My latest patent is a wireless bus for computers and other digital devices (U.S. Patent # 6,771,935). I am also a certified electronics technician (ISCET and iNARTE) and an Extra Class amateur radio operator (call sign N3NL). I have a Master of Arts degree in Political Science from the Johns Hopkins University (June 1970). In addition, I am a professional technical writer.

In my first comments document (submitted on June 7, 2010), I discussed the ethical problems with the proposed three-track patent application system.

In this additional comment document, I discuss the history of the patent system and the relationship of this history to the proposed three-track patent application system.

Historical Role of Patents

Since its founding, the Patent Office was seen as a system that supported the independent inventors and the small companies in their efforts to develop new inventions and introduce them into the Nation's economy.

For example, a recently-published biography of a major 19-century inventor has the observation:

“That relatively low [patent] fee is important. Elsewhere in the world, patent fees in the nineteenth century are roughly ten times what American inventors must pay. High fees are another way of keeping patents in the hands of the wealthy and powerful, of locking out the average citizen. In Great Britain, which only gradually comes around to the American system, extending a patent requires an act of Parliament – and that, in turn, requires entrenched political influence that the regular inventor does not possess.”

(Reference One)

How well would the proposed fast track patent processing meet this historical standard? In my opinion, the expensive Track 1 goes directly against the historical traditions of the Patent Office. It will establish a new cost barrier to rapid and effective patent protection. This will accelerate the existing decline in the percentage of independent inventors obtaining U.S. patents. In addition, it will reduce the legitimacy of the United States Patent and Trademark Office itself.

Recommended Historical Evaluation of the USPTO

The USPTO should establish a committee or commission of recognized historians and social scientists to examine the historical nature of the American patent system and the compatibility or incompatibility of the proposed Track 1 (high-fee accelerated processing) with the American patent traditions.

The historical traditions of the USPTO are valuable assets that should not be disposed of to establish a fast track patent application processing option for the more wealthy patent applicants.

We do not want to see a situation where there are serious suggestions that the USPTO be radically restructured, or even abolished, because it has become closely allied with the interests of large organizations at the expense of its historical roots and its smaller users. If the percentage of patents issued to independent inventors drops to single digit values, such demands for radical change to the USPTO will occur.

Alternatives to Track 1 Prioritized Applications

I suggest that the USPTO consider raising the patent application fees for all applicants by one hundred dollars (\$100). This would raise a significant amount of money that would allow additional patent examiners to be hired. Furthermore, the USPTO could hire junior apprentice examiners who could review applications at their preliminary stages under the supervision of senior patent examiners. Also, non-engineer technicians could be hired for many functions in the examining process. In addition, the temporary hiring of engineering consulting firms to conduct patent applications on a contract basis could be considered. Any or all of these alternatives would be preferable to the Track 1 Prioritized Applications.

Respectfully submitted,

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Reference One

Julia Keller, Mr. Gatling's Terrible Marvel, Penguin Books – Penguin Group, New York, 2008, Page 64 ISBN 978-0-14-311564-9 paperback edition