

From: Gordon Lindeen <Gordon_Lindeen@bstz.com>
Sent: Friday, February 17, 2012 12:01 PM
To: aia_implementation
Subject: Fee Setting (Before Proposed Rules)

The fee setting is a huge shock. As practitioners we were told that there was fee diversion. In other words, the PTO was taking in more money than it was spending. We logically concluded that, the PTO services cost less than we were paying. We expected that if you were instead to charge the actual cost of services, then the fees would be lowered, not radically increased.

Assuming that the radical increase in fees will result in a radical increase in money taken in, then there should be additional services that we were not previously receiving. In fact, just by ending fee diversion with the revolving account, there should be additional services that we were not receiving.

These fee increases will not result in the fee increase that you hope for. There are many fees that I pay because it is cheaper to pay the fee than it is to petition, argue, contest, appeal, etc. With these fee increases, the balance will change. You will find that attorneys will stop just paying fees and start arguing their cause. You will also see that PCT filings suddenly become a lot more affordable and the importance of US prosecution will be diminished.

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From: Gordon Lindeen <Gordon_Lindeen@bstz.com>
Sent: Friday, February 17, 2012 12:03 PM
To: aia_implementation
Subject: Micro-entity (Before Proposed Rules)

The multiple tiers for fees is bad policy. Now large entities are paying to subsidize solo inventors to an even greater extent than before. This is only necessary because of the abusive increase in fees. This takes you down the road to greater complexity and an entitlement class of inventors that is receiving the benefits without paying for them.

Rules like this will encourage fraud and abuse just as they do in the tax code and University tuition.

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From: Gordon Lindeen <Gordon_Lindeen@bstz.com>
Sent: Friday, February 17, 2012 5:17 PM
To: aia_implementation
Subject: Fee Setting (Before Proposed Rules)

The new fees show that it costs much more to provide services than it did when some of the fees were being “diverted.” If this is so, then perhaps my clients can opt out of premium services and pay less. I would like to have my patents examined by examiners who are not working overtime even if it takes longer. I would like to have just one search, not an initial search and then another one after my first amendment to the claims and then another one with the final rejection. I would like to have an Examiner’s answer in response to an appeal brief instead of another Office action that cites references of record. I also don’t need PTO staff to travel around with speaking engagements and I certainly don’t need any staff flying to foreign countries to talk about harmonization, the State Department can do that. I also don’t care to pay for studies, pilot programs, and the high turnover rate for new examiners. As for Office priorities, I would like to set those so that I am not paying for things that I don’t want. A pendency of three or four years is fine. 18 months might be nice but I don’t want to pay extra for it.

If I must pay the new high fees, then I would like all of my patents to be examined by Examiners who work at the patent office during normal business hours, show up each day and return phone calls that day or the next. I also want a good search the first time by examiners that are not afraid to interview cases, and I want access to the SPE whenever I need it.

My point is that the idea behind the new fees that somehow we pay for the value that we receive is absurd. The USPTO is a political organ and sets priorities that are sometimes at odds with patent applicants. If we pay for the office then we are stakeholders and should determine what the office does. Sometimes we receive good value, often we do not yet the fees are the same. By radically increasing fees, you will affect our behavior and what we expect from you.

Another point is that fees should go down if “fee diversion” ends. There is clearly something wrong in the calculus.

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