

AMERICA INVENTS ACT

Section 29: Patent Ombudsman Program for Small Business Concerns

Section 28 of the Leahy-Smith America Invents Act (AIA), Pub.L. 112-29 (2010), requires the United States Patent and Trademark Office (USPTO) to establish and maintain a Patent Ombudsman Program for Small Business Concerns using its existing resources. The AIA specifies that the program provide support and services relating to patent filings for small business concerns and independent inventors. In accordance with the AIA, the USPTO has established such a program to be known as the Program for Small Business Concerns.

More specifically, the USPTO has combined the efforts of the existing Office of Innovation Development and the existing Patents Ombudsman Program to form the new Program for Small Business Concerns. This new Small Business Concerns program will serve the needs of small businesses and independent inventors, while still offering an ombudsman service to all patent applicants. The new Small Business Concerns program offers a full range of services at all stages of the patent process, including before an application is filed, while an application is pending at the USPTO, and after a patent has issued.

The Office of Innovation Development provides users with resources before the filing of an application and after a patent has been granted. In contrast, the Patents Ombudsman Program helps users who have already filed an application and need assistance advancing the prosecution of that application. A dedicated web page for the AIA Small Business Concerns Program is under construction and when completed will act as a central location for relevant information and to channel queries to the appropriate area such as Office of Innovation Development and the Patents Ombudsman Program. A general overview of the Office of Innovation Development and the Patents Ombudsman Program follows.

Office of Innovation Development

The Office of Innovation Development (OID) provides users with a wide-range of practical information on how to file a patent application, scam prevention, pro se and pro bono programs, educational materials, and outreach events. OID also provides the small business community with customized information about the intellectual property system.

OID works directly with independent inventor organizations across the country to assist them with their various needs and is in the process of establishing the same types of relationships with organizations, both within the Federal Government and the private sector, that assist small businesses. Close communication with these organizations will benefit small businesses and allow them to have better access to information and assistance from the USPTO.

Additionally, OID recently partnered with the National Institute of Science and Technology Manufacturing Extension Partnership to develop the IP Awareness Assessment Tool, which was launched in a beta version in the spring of 2012. This tool helps small businesses and inventors assess their intellectual property awareness and learn what steps they should take to protect these valuable assets. The tool is currently located on numerous government agency websites, including BusinessUSA, and has been introduced at small business conferences.

To view OID's website, please visit <http://www.uspto.gov/inventors/index.jsp>. OID also can be contacted by telephone at 571-272-8877 and by email at independentinventor@uspto.gov.

Patents Ombudsman Program

The Patents Ombudsman Program can assist pro se patent applicants, attorneys, and agents with application-processing issues, particularly those with concerns about advancement of prosecution. The majority of patent applications filed with the USPTO proceed through the examination process in accordance with established USPTO procedures. However, in some situations, patent applicants, attorneys, and agents have felt that examination has stalled and that their efforts to move their applications forward through normal channels have not been effective (e.g., the examiner not appear to address a new argument or amendment, and the applicant cannot reach the examiner and Supervisory Patent Examiner after a reasonable period of time). The Patents Ombudsman Program is a vehicle for assistance in these circumstances.

For those applications in which the normal process has gone awry and after all other procedural avenues have been used but failed to provide the needed assistance, the Patents Ombudsman Program Representative may be contacted for an application-processing issue that the applicant has been unable to resolve. The Program is not designed to circumvent normal communication between pro se applicants or applicants' representatives and examiners or Supervisory Patent Examiners, and it is not intended to supersede the authority of the examiners or Supervisory Patent Examiners. Rather, the Patents Ombudsman Program is intended to: (i) facilitate complaint-handling for pro se applicants and applicants' representatives whose applications have stalled in the pre-examination and examination processes; (ii) track complaints to ensure each is handled within ten business days; (iii) provide feedback and early warning alerts to USPTO management regarding training needs based on complaint trends; (iv) build a database of frequently asked questions accessible by the public that tracks commonly seen problems and effective resolutions; and (v) engage in outreach efforts to the intellectual property community.

To view the Patents Ombudsman Program's website, please visit <http://www.uspto.gov/patents/ombudsman.jsp>. The Patents Ombudsman Program also can be

contacted via telephone at 571-272-5555 or 855-559-8589, or by email at <mailto:ombudsmanprogram@uspto.gov>.