



JAPAN PATENT ATTORNEYS ASSOCIATION

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Via email

Attn: Ms. Mary Critharis
or Mr. Charles Eloshway
Office of Policy and External Affairs
United States Patent and Trademark Office
IP.Policy@uspto.gov.

November 7, 2011

Re: Submission to the Request for Comments on the Study of Prior User Rights

Dear Sirs:

The Japan Patent Attorneys Association or JPAA is a professional association of more than 9,000 patent attorneys practicing in all aspects of intellectual property laws in Japan. A substantial proportion of work done by Japanese patent attorneys involves helping local clients prosecute US patent applications.

JPAA submits the following comments on patent prior user rights.

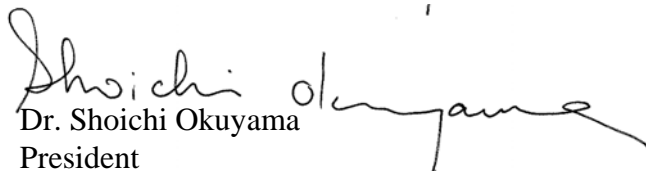
According to the Japanese Patent Law Art. 79, the prior user rights are given to a person or entity who used the same invention as patented, if the invention was used by the person or entity without knowing the patented invention before the filing date of the patent application. Further, the prior user rights are given to a person or entity who is actually going to use (or actually preparing to use) the same invention as patented. We desire therefore that not only actual use of the invention but preparation therefor prior to the filing date of the patent application should be covered under the prior user rights in the US.



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We believe that under the first-to-file system, it is necessary to give the prior user rights in all fields of inventions as far as they are accorded in view of equity balance between a patentee and a prior user of the same invention.

Sincerely yours,


Dr. Shoichi Okuyama
President
Japan Patent Attorneys Association