

From: Bob Gunderman
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To: WorldClassPatentQuality
Subject: Suggestion for Patent Quality Improvement

I am a registered practitioner, and I periodically run into a quality issue with nowhere to turn for resolution. Having prosecuted many cases in the past 10 years, there have been several instances I have seen where the quality of the Office Action is terrible. Specifically, the Office Action contains numerous grammatical errors, misspelled words, and poorly written English. This is usually in addition to poor quality rejections and a lack of understanding of the rules and the procedures set forth in the MPEP. These poor quality Office Actions are almost always associated with junior level Examiners and not primary Examiners, and are a real impediment to prosecution. Lack of clarity in written English makes prosecution difficult, if not at times impossible. If patent applications were written with such sloppiness, they would be taken out by 112 rejections. Unfortunately there is no such quality mechanism with Office Actions and bad ones are damaging and costly to the applicant. Should an example of such poor quality Office Actions be needed, please refer to 12/961,691 to Gunderman et al. and the numerous errors present in the Office Actions prepared by Examiner Steve T. Chung.

A suggestion would be to have a quantifiable standard to render an Office Action invalid and necessitate the redrafting and resending of the Office Action by the Examiner. For example, should an Office Action contain more than a given number of errors, the Examiner would be required to redraft and resend a proper Office Action. Errors should include grammatical errors, typographical errors, incorrect procedural steps (actions taken by the Examiner that are not in keeping with the MPEP), etc. There should be a penalty to the Examiner who drafted the error filled Office Action, and also a benefit to the Applicant to offset the cost burden and damage done to the Applicants pending patent rights. Examiners that incur repeat and continual penalties for poor quality Office Actions should be asked to find employment elsewhere.

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