

From: Christopher Hummel [email redacted]
Sent: Wednesday, May 06, 2015 4:58 PM
To: WorldClassPatentQuality
Cc: Robert Katz; Darrell Mottley; Sylvia Strickland; Amanda Robert
Subject: Comments in response to USPTO's Request for Comments on Enhancing Patent Quality, Fed. Reg. Vol. 80, No. 24 (February 5, 2015)

May 6, 2015

Mr. Michael Cygan
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner for Patent Examination Policy
Mail Stop: Comments—Patents, Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

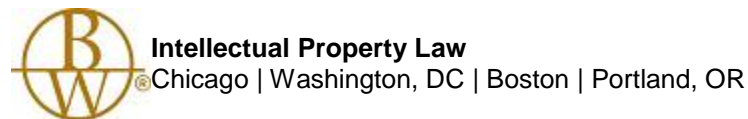
[RE: Comments in response to USPTO's Request for Comments on Enhancing Patent Quality, Fed. Reg. Vol. 80, No. 24 \(February 5, 2015\)](#)

Dear Mr. Cygan,

On behalf of Mr. Robert Katz and Mr. Darrell Mottley, attorneys with Banner & Witcoff, I attach written comments on enhancing patent quality in PDF format. We are pleased to provide these comments as requested.

Sincerely,
Chris Hummel

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Commissioner for Patents of the United States Patent and Trademark Office
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Office of the Deputy Commissioner for Patent Examination Policy
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Alexandria, VA 22313-1450
via email: WorldClassPatentQuality[at]uspto.gov

Re: Comments in response to USPTO's Request for Comments on Enhancing Patent Quality, Fed. Reg. Vol. 80, No. 24 (February 5, 2015)

Dear Commissioner:

We are attorneys with Banner & Witcoff, Ltd., an intellectual property law firm with more than 100 IP professionals in Washington, DC, Chicago and Boston. For the twelfth consecutive year, our firm has obtained more U.S. design patents than any other law firm. Banner & Witcoff attorneys procured 790 U.S. design patents for our clients in 2014 and nearly 7,000 U.S. design patents since 2006. Accordingly, the design patent system and the quality of design patents issued by the U.S. Patent & Trademark Office (USPTO) are extremely important to Banner & Witcoff and its clients.

Comments and Suggestions Regarding Proposal 3 Under Pillar 1: Clarity of the Record

We respectfully request that the USPTO enhance the print quality of the images in its issued design patents. The scope of design patents is essentially formed by the figures which depict the design to be protected. Indeed, it is the images of a design patent that are compared to an accused product to determine design patent infringement.

However, we have noticed that the print quality of images in U.S. design patents varies. In many cases, sharp crisp lines in filed drawings are poorly reproduced and end up appearing rough, jagged, and/or blurry in the resulting design patent. In many cases, reproduced solid lines in filed drawings which form part of the claim appear as broken or dashed lines (which give the impression that they do not form part of the claim). In many other instances, reproduced dashed lines in filed drawings which do not form part of the claim appear as solid lines giving a false impression that they might form part of the claim.

Design patents where the drawings include graphical images are sometimes reproduced with grids or other patterns thereon which were not part of the drawings as filed. In many of these cases the quality of the drawings filed by the applicant was diminished in the reproduction process. While the filed higher quality images are part of the prosecution history, lower quality reproductions of the images in the U.S. design patent have the potential of complicating litigation. In sum, the U.S. design patents should have images with a higher print quality to improve the quality of the design patents. We respectfully request that the USPTO take all available steps to achieve this goal.

In addition to improved image quality resulting in the improvement in the quality of the design patents, it would have the added benefit of assisting in the examination process of future design patent applications. Design patents are searched by design patent examiners as part of the examination processes. Better reproduced images will assist design patent examiners in determining whether a design patent should or should not be used as a reference during examination.

It is our understanding that this print quality issue is due in part to the use of a technology which converts images in PDF files into a TIFF image format. Further, it appears that reproduction of color figures are done in a different process or with a different setting enabling them to reproduce differently and at a much higher quality. Accordingly, if in fact the USPTO can use a "color" setting and/or process to bypass the varied results of using the TIFF conversion process, it is respectfully requested that the USPTO use this process on all design patent drawings – or at least until a different process is established which will not materially reduce the quality of the design patent images.

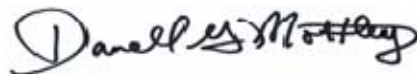
Further to this point, we endorse the letter submitted by Sterne Kessler Goldstein & Fox P.L.L.C. on May 5, 2015 on this topic, and join them in calling for enhanced quality in patent drawings.

The views expressed herein are our own and are not to be attributed to any other person or entity including Banner & Witcoff, Ltd., or any client of the firm.

Respectfully submitted,



Robert S. Katz



Darrell G. Mottley