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To: WorldClassPatentQuality

Subject: Patent Quality and 35 USC 112

Thank you for extending the comment period on the important issue of patent quality.

At the PPAC meeting in May 2015, it was evident that patent quality is a top priority of both the patent office in its capacity of serving the public and advancing the scientific arts, and also the stakeholder community of companies and inventors that provide the innovation driving our economy. It seemed that the greatest concerns about patent quality involve all aspects of 35 USC 112.

Advanced technology exists today to vastly reduce 35 USC 112 quality problems both for initial application filings and during prosecution (e.g., arising during amendment of the application). Although not yet available to examiners, this technology is widely available to applicants. Thus, it is possible today to vastly improve patent quality "at the source" by reducing or eliminating 35 USC 112 problems before applications or amendments are submitted.

If applicants applied available quality-control technology to their submissions and provided examiners with comprehensive verifying documentation, the result could be much greater certainty as to claim scope (especially regarding functional language, means-for limitations, ranges, words of degree, etc.). Another result would be reduced prosecution time and costs, as the examiners could feel confident of the BRI claim scope for their searches and examination. Prosecution would not bog down over matters of indefinite claims, inconsistencies between the drawings and specification and claims, poorly scoped claim terms, and so on. Overall costs and time from filing to grant would go down, quality would go up, and public satisfaction with the patent system would improve.

We therefore propose that the patent office strongly consider offering procedural advantages to applicants who submit along with new applications or amendments comprehensive documentation showing where claim terms are supported in the drawings and specification, showing that said support is consistent throughout the submission, and showing that claim terms have proper antecedent basis. The patent office should specify the documentation required and offer incentives for applicants to provide it.

The patent office should work with technology providers in industry to draft guidelines on the type of documentation applicants would submit to demonstrate to the office's satisfaction that new submissions did not have 35 USC 112 problems. Some form of accelerated examination for participating applicants would be an excellent incentive. This would have an immediate and substantial effect on improving patent quality by improving the quality of submissions at the source. Better quality inputs from applicants will mean faster examination on the merits and better quality patents.

Thank you for extending the comment period on patent quality.

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