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Proposed Continuing Legal Education Guidelines

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General Comment

Dear Sir:

I am a registered patent attorney. I believe in the value of knowledge, and acquisition of third party perspectives, and further believe that patent attorneys are best served by being knowledgeable in both patent law and technology. However, I also believe that most active patent prosecution practitioners do not need additional training in patent law. In fact, it is often the Examiners that do not read and understand the cases, especially those cited per the MPEP, and may not have a background in how to interpret a case to distinguish between holding and dicta. In any case, 6 hours of CLE, to the extent that it overlaps with state bar requirements, is a low bar, and easily met. But then, why bother? The record-keeping and reporting takes precious hours, and seems destined to simply be a trap set for the unwary, as compared to truly advancing client or public benefit.

Note that apparently, legal research on behalf of a client is excluded from the writing option, while such efforts not on behalf of a client, or prop bono, or clinics, are included. Why? The research and time are the same, yet treated differently. This speaks to an agenda that has nothing to do with the supposed goals of ensuring a body of trained patent attorneys and agents and improved quality of service for the consuming public, and more to a policy of increasing costs to paying clients (due to more limited availability of practitioners) and increasing the number of issued patents for which the inventor has no ability to practically commercialize (e.g., the "pro bono" clientelle), exacerbating the supposed problem of "non-practicing entities".

I think the continuing education options should include technological education, that could make the body of patent attorneys better at their avocation. Further, such efforts as reviewing USPTO RFC's, and responding on the record, should also be counted toward the CLE time quota, else the USPTO will lack the benefit of incentivized analysis of its actions and proposals.

In sum, I agree that practitioners who fail to advance themselves will fall behind, to the detriment of clients and society, but imposing requirements that are not likely to actually improve performance is improper. Without a clear public benefit for each practitioner, the CLE requirement is simply an exercise of raw regulatory power, which contradicts President Trump's mandate for reduced regulation where possible.

Respectfully submitted.
Steven M. Hoffberg
Reg. 33,511