

Attention Michael Cygan:

Title: "Repeated Withdrawals of Rejections after an Appeal and an Appeal Brief."

Proposal for Study: Sequential withdrawals of a rejection and implementation of a new office action rejection after Appeal and after the filing of an Appeal Brief is recognition that the final office action rejection was in error and such facts demonstrate that quality prosecution is lacking. Repeated such withdrawals in the same patent application is egregious. The Office should identify and study those pending applications having two or more instances of withdrawal of a rejection after filing an Appeal and an Appeal Brief to ensure against abusive prosecution and/or prosecution by one or more improperly trained examiners.

Explanation: Patent prosecution is expensive for Applicant and is compounded by the cost of an Appeal and an Appeal Brief. Examiners are encouraged to take steps to ensure that a final office action is correct. Where the Office acknowledges (by withdrawal of a first Appeal after filing of an Appeal Brief) that the final office action was not correct, the Office should ensure that any new rejection is correct. The office should investigate all instances where a second or subsequent appeal brief is followed by a withdrawal of a rejection and implementation of a new rejection. The erroneous final office action has unjustly extended prosecution and incurred expense to the Applicant and to the Office. Applications where there is more than one withdrawal of a rejection after an Appeal and Appeal Brief clearly evidences abusive prosecution and/or prosecution by one or more improperly trained examiners. Such instances should be identified so as to take corrective action and to ensure quality examination.

Thank you for your consideration.

Sincerely,

Richard B. Lazarus