

From: David Chevront
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To: Eligibility2019
Subject: Comments

I greatly appreciate the effort by the new Director of the Patent Office to implement much-needed reforms of the U.S. patent system and I support the 2019 Revised Patent Subject Matter Eligibility Guidance. The failings of the US Patent system need to be seriously addressed if this country is to regain and retain technological leadership and continue to be seen as a world leader for innovation. Unfortunately, I hear IP attorneys advising against filing patents because the system is no longer effective. It takes so long that the technology is likely obsolete before a decision is reached, the process is too expensive, the results are uncertain at best, and if a patent is granted, there are countries that will put people to work immediately to copy it and do so in way that there is no practical recourse. Even those in this country who infringe on patents can often get away with it because of the extreme costs to the inventor to defend their rights. At this point, I have been advised most frequently to use the trade secret approach and avoid the patent process altogether because the system is so unreliable.

What is really sad is to see all the identical comments against this single step to reform the US Patent system! The comments all read "I urge the USPTO not to adopt the guidance on subject matter eligibility set forth in the Request for Comments, Docket No. PTO-P-2018-0053. Instead, the USPTO should provide guidance that ensures examiners apply the Supreme Court's Alice v. CLS Bank decision correctly... (blah, blah, blah)."

Really? Did any of these commenters even read the guidance? I seriously doubt it. They sure didn't bother to write anything themselves! In fact, these people didn't even bother to credit the source that they copied their comments from. I do wonder what that source was. Most high school students I mentor in this country at least know to cite a source they copy from (unlike some of our foreign students... from the same places that routinely copy from our patents).

I did read the two guidance documents and do think these would help make for more consistent decisions, and maybe could even expedite the process. I don't think this goes far enough though.

Keep on working to reform and fix our patent system! One suggestion may be to help make it easier to protect patents from being blatantly copied by our competitors from countries that simply don't respect IP. This could potentially be done by providing a clear and explicit means to allow certain key elements of an invention to be protected from requirements for public disclosure (e.g., kept as proprietary in part). There could perhaps be allowance for critical information needed by the examiner to ascertain eligibility to be disclosed only to the examiner, but not released to those who would try to copy it. Yes, I do understand that would require some changes. But isn't that's what reform is all about? Wouldn't it be worth it to restore America's competitiveness? No one said this is easy.

Thank you,
David Chevront