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From: O'Malley, Mary [mailto:momalley@ebay.com]

Sent: Tuesday, May 02, 2006 10:12 PM

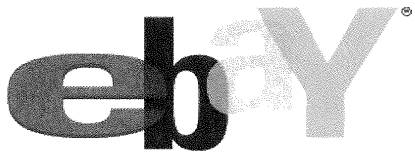
To: AB93Comments

Cc: Ward, Emily

Subject: Comments re Notice of Proposed Rule Making - AB93

Please see the attached letter sent on behalf of Emily L. Ward,
Associate General Counsel, Patents, for eBay Inc.

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eBay Inc.

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May 2, 2006

*Via electronic mail to AB93Comments@uspto.gov
Confirmation copy via U.S. mail*

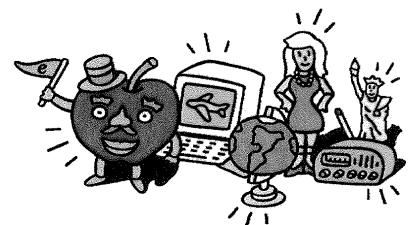
Mail Stop Comments – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Va 22313-1450

Dear Commissioner,

These comments, presented on behalf of eBay Inc., express our support of the United States Patent & Trademark Office's continued efforts to make the Office more efficient, to ensure that the patent application process promotes innovation, and to improve the quality of issued patents. In particular, we commend the Office's proposal to amend the rules as they relate to continuation practice and claims practice, and as discussed in the Federal Register, Vol. 71, No. 1, published January 3, 2006, entitled "Changes to Practice for Continuing Applications..." and "Changes to Practice for the Examination of Claims in Patent Applications."

eBay is a company that has helped to pioneer e-commerce and continually seeks to protect our innovations with the help of the Office. Due to our success in the marketplace, however, eBay has also often been a target of spurious accusations of patent infringement by those who abuse the patent system and hinder, rather than promote, innovation. We believe that the proposed changes to the rules, particularly as they relate to the continuation practice, will help curb some of those abuses of the patent system.

The proposed rules will promote the goal of giving the public precise and speedy notice of what an applicant regards as his or her invention. As the Federal Register described, not every applicant comes to the Office prepared to particularly point out and distinctly claim what he regards as his invention until after multiple continuations. Rather, some applicants abuse the current rules, by not producing any products themselves but watching for upcoming developments and then drafting claims to cover those anticipated developments in order to target certain businesses or product lines for later litigation or licensing negotiations. The proposed rules will tend to give the public more precise and speedy notice, thereby affording the public, including U.S. industries, with an opportunity to assess their own activities and act to promote and reward innovation appropriately.



The proposed rules will also tend to ensure that a patent applicant receives a fair opportunity to be rewarded and publicly recognized for his or her invention. The availability of one continued examination filing as a matter of right provides an applicant with an opportunity to work with the Office to arrive at claim language which concisely describes his or her invention. The proposed rules, in accordance with case law, also continues to provide the applicant with the ability to file additional continuations when the applicant believes that further assistance from the Office is needed to arrive at the proper claim language. It is fair for the Office to ask such applicants to share some of the burden in examining additional continuations.

We appreciate the advance notice and the opportunity to comment on the Office's proposed rule making. We commend the Office's proactive approach in protecting the public's interest in an efficient Office, a patent application process that promotes innovation, and improved patent quality.

Respectfully submitted,

/Emily L. Ward/



Emily L. Ward
Associate General Counsel, Patents
for eBay Inc.