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From: Byron Hale [mailto:byron.hale@einfo.com]

Sent: Wednesday, May 03, 2006 7:45 PM

To: AB93Comments; AB94Comments

Subject: Comments on proposed changes to continuations and claims examinations.

See attached letters.

Byron Hale  
Chief Technology Officer  
Effective Information, LLC

May 3, 2006

Mail Stop Comments?Patents,  
Commissioner for Patents,  
P. O. Box 1450,  
Alexandria, VA, 22313?1450,

RE: Continuation practice

Dear Commissioner Doll:

I am an independent inventor and product developer located in Silicon Valley. I used to derive money from independent consulting contracts, but H-1B employees have virtually eliminated that source. My funds come from loans, a mortgage, and my wife's earnings. I have a very limited budget for development and marketing of my invention. All of my patent costs, not to mention the cost of development tools, come out of my very limited budget. Then there are the costs of feeding me, housing me and clothing me, etc., which must come from somewhere. The same interests that decline to hire me to invent due to age (which can happen at an age as low as age 30), also conspire to have the government biased in their favor, despite their claims of being capitalist.

I understand that the proposed rule changes on continuations would drastically increase my costs for obtaining a patent, while at the same time restricting the protection I pay for.

I understand that the proposed rules would force me to appeal all final rejections rather than filing continuations to give the examiners the additional time the need to better understand my invention.

I understand that the proposed rules would force me to file additional applications all on the same day to cover my invention

I understand that the proposed rules would force me to file many additional claims in my applications

I want you to understand that the proposed rules may result in abandonment of any inventions.

I want you to understand that the proposed rules would shift the cost benefits analysis to the benefit of a few well funded inventors. In effect, the USPTO would be conspiring with those inventors to constrain trade.

I further want you to understand that any retroactive actions would go against the spirit of the U. S. legal system because they would have the effect of ex-post-facto law. While I read complaints that U. S. citizens do not produce enough patents, at the same time constraining regulations such as this one, are being proposed to further reduce the production of U. S. patents.

From my cost-benefits analysis, I cite a recent patent auction in New York City, where only a few patents had any commercial value. Indeed, one famous, well funded Silicon Valley lab, headed by famous inventor Lee Felsenstein, had a business model of inventing and spinning-off companies or licensing patents. That lab closed its doors, never to be heard of again. The average benefit to me of any patent is therefore low and these proposed regulations would raise the costs of patents. I invite you to consider at what point I would find patents to be bad investments, or perhaps take my talents somewhere they would be appreciated.

Rather than the changing the continuation rules, I recommend that you continue

USPTO Continuation Practice1.txt

to increase the rate of hiring of examiners and redirect the fees to training, salaries, and retention. As the examiner force increases, the number of examiners you can hire and train each year would also increase. By your own numbers, the recent increase in examiner hiring has stabilized the time to examine applications. Continuing to hire at the present rate will inevitably drive that time down.

Thank you for your consideration of my recommendations.

Sincerely,  
Byron L. Hale  
Chief Technology Officer,  
Effective Information, LLC

May 3, 2006

Mail Stop Comments?Patents,  
Commissioner for Patents,  
P. O. Box 1450,  
Alexandria, VA, 22313?1450,

RE: Proposed rule changes on claims examination

Dear Commissioner Doll:

I am an independent inventor and product developer located in Silicon Valley. I used to derive money from independent consulting contracts, but H-1B employees have virtually eliminated that source. Before that I invented things as an employee of Silicon Valley companies. Some of the same businesses that have brought the H-1Bs are pushing the proposed regulations, to their advantage and my disadvantage.

I won my state science talent search and was a semifinalist in the National Science Talent Search when graduating from high school. I received a 10 year award from my graduate department shortly after receiving an M.S. degree. My high school physics teacher wrote to tell me that I had tied with one other student for best in her teaching career. That student became an astronaut. Yet, the proposed changes could make inventing in the U.S. unsavory to me. My daughter can't understand why I didn't become a grocery clerk. Is it the American dream to go from promising scientific talent to grocery clerk?

My funds come from loans, a mortgage, and my wife's earnings. In addition, my daughter is at the university and that costs us tens of thousands of dollars a year. I have a very limited budget for development and marketing of my invention. All of my patent costs, not to mention the cost of development tools, come out of my very limited budget. Then there are the costs of feeding me, housing me and clothing me, etc., which must come from somewhere if I am to invest in a patent.

I understand that the proposed rules changes on continuations and claims examinations would drastically increase my costs for obtaining a patent, while at the same time restricting the protection I would pay for.

I understand that the proposed rules would force me to file additional claims in my applications.

I understand that even though I paid for twenty claims to be examined, the examiners would only examine ten claims.

I understand that the proposed rules would force me to file many additional applications to cover my invention.

I want you to understand that the proposed rules would take money away from my budget for development of my invention. The proposed rules would take money away from marketing. The proposed rules would take money away from my net worth. The proposed rules would increase my debt load. The proposed rules would decrease the number of inventions I would be able to bring to the public.

The proposed changes decrease the value to me of any patent absolutely, as well as relative to any end benefits. This is because the proposed changes would place me in a disadvantageous position in any business negotiations, due to an increased financial burden.

Rather than the changing the claims examination rules, I recommend that you

USPTO Claims Examination1.txt

continue to increase rate of hiring of examiners and redirect the fees to training, salaries, and retention. As the examiner force increases, the number of examiners you can hire and train each year would also increase. By your own numbers, the recent increase in examiner hiring has stabilized the time to examine applications. Continuing to hire at the present rate will inevitably drive that time down.

Thank you for your consideration of my recommendations.

Sincerely,  
Byron L. Hale  
Chief Technology Officer,  
Effective Information, LLC