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Sent: Friday, January 06, 2006 3:45 PM

To: AB93Comments

Subject: Comments on "Changes to Practice for Continuing Applications etc" Docket No: 2005-P-066; RIN 0651-AB93

Dear Sirs:

The proposed changes on Continuing applications should not be enacted for following reasons.

Advantages of continuations to USPTO

(1) Continuation practice is a 'cash-cow' for the USPTO. Most Continuations require little or no further searching. They are 'easy' disposals for the Examining corps.

(2) The 'easy' disposals noted above not only bring in money but quick disposals improve USPTO statistics (eg shorter pendency time per application).

(3) By forcing applicant 'against the wall' without a Continuation option, there will be many more Appeals. Surely Appeals clog the system more than continuations and are internally more 'expensive'.

Fairness to Applicant

(1) Many Continuations result from manipulation of the rules by Examiners against Applicants. For instance, I've seen many first Office Actions with only a formalities rejection. Applicant replies with a minor amendment to correct the informality. Thereupon a Final Action is issued with a reference applied against the claims. At this point most Examiners will not enter any amendment to overcome the Final Rejection. A Continuation is therefore the only solution. Another variant is a substantive first Office Action rejection over prior art. Applicant amends. Thereupon the Examiner applies another reference in a Final Action. Applicant can no longer amend and is forced to refile.

(2) Foreign Search Reports or newly discovered relevant art can arrive deep into the prosecution cycle. Abolition of Continuation practice prevents consideration of this art by USPTO.

I understand that any of the aforementioned hardships would be tempered by an appropriate Showing. But this places a new burden on applicant. Showings also add a new administrative layer of bureaucracy. Continuations are much fairer and simpler remedies. Note further that Continuations allow Applicant to maintain as pending the application till completion of many administrative remedies - eg Petitions - which are not always timely decided. Will Showings be done by Petition?

Most practical remedy: Allow Applicants to amend AS OF RIGHT after Final Actions. This will avoid excessive Continuations.

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