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**From:** Chad Huston [mailto:chuston@dmtechlaw.com]

**Sent:** Tuesday, February 07, 2006 6:59 PM

**To:** AB93Comments

**Subject:** Continuation Practice

I want to thank Jim Toupin and John Doll for attending AIPLA and explaining the problem. While I fully support the claim initiative, I believe the limitation on continuation practice is misguided. However, it is clear that the rapid rise in the number of applications filed and increasing pendency is a critical problem. Here are my suggestions.

1. Fee diversion must be stopped. Users understand the need for a modern, efficient patent examination process and are willing to fund it.
2. Allow deferred examination in conformance with international practice. With the change in term for a patent to 20 years from the date of filing, the public's interest are not effected by deferred examination of published applications. A significant portion of patent applications would be deferred for a number of reasons which are widely known and accepted by the patent bar. I suspect the number of deferrals would be in the range of 10 - 30% which would significantly help the pendency problem.
3. Increase the fees for continuations in excess of one, but still allow them. This will bring the number of continuations down to a manageable number.
4. A recent article in IEEE has proposed a new, shortened patent:

<http://www.spectrum.ieee.org/feb06/2785>.

While I do not support the system outlined in the IEEE article, some of the observations are worthy of considerations.

5. A mandatory pre-examination search by applicant is unworkable. However, a simple, voluntary system might be devised that permitted applicant to submit a pre-examination search and report upon which an expedited examination would be based. This would be very popular in the fast moving technologies where pendencies greater than 3 years are unacceptable. Unlike the proposal in IEEE, I propose that a patent with a normal term and rights should issue from such "fast track" applications. In the event such a fast track patent is litigated, I propose an automatic stay pending an inter partes reexamination (unless the patent has already been reexamined).

Regards,

Chad Huston