

From: jeffrey konicek [mailto:jckonicek@att.net]
Sent: Tuesday, April 11, 2006 9:47 PM
To: AB93Comments
Subject: Extremely Negative on Proposed Rule Changes

I write in strong opposition to the Proposed Rule Changes regarding Continuations, RCEs, etc. These rule changes are an absolute disgrace to the PTO and its mission to the American public and economy. At a time that the US is losing competitive advantage to faster and hungrier countries such as India, China, Korea, etc. on the technological front, the USPTO should be considering Rules that improve and strengthen Intellectual Property rights for American companies and individuals. The USPTO should NOT be engaged in attempting to restrict or further limit the granting of patents on nothing more than procedural grounds after an inventor has faithfully and fully disclosed his innovation to the public.

It is not persuasive reasoning to attempt to justify these rule changes by erroneously indicating that they will improve efficiency or effectiveness of the PTO or that they will result in speedier patent prosecuting, they will not. Furthermore, this last reason is particularly egregious as it amounts to throwing out the baby with the bathwater in that the proposed rule changes do nothing, NOTHING, to speed patent prosecution except perhaps to limit the prosecution of an application with the result that a great many applications worthy of a patent will be thrown out for nothing more than procedural reasons and not on the merits. This helps the process? It improves the patent system? Its fair to the individual? Its good for the country? The answer to all these questions is a resounding NO.

The USPTO is most effective and efficient when it does its job, that for which it is chartered---the review, examination, and grant or denial of letters patent. The process should take however long as it needs to take to be complete, thorough and valid, and not be limited by bogus time constraints that do nothing to improve the system (other than perhaps reduce the PTO's workload). Limiting RCEs is absolutely absurd in this regard and does nothing but impair one's ability to obtain a valid patent, and it does so by invalid reasons. Has anyone proposing these rule changes bothered to look at how often an examiner changes his basis for rejection or uncover new prior art previously unknown to either the applicant or the examiner? These should be reasons for automatic GRANTS of continued examination and instead the proposed rule changes attempt to restrict continued examination. This only serves to hurt the patent system and the protections it provides.

Limiting continuation applications is nonsensical as well. If there exists an invention in a previous disclosure that has gone unclaimed, why should an individual, corporation, etc. be restricted from claiming that invention in later prosecution? Efficiency, expediency, effectiveness, etc. are not sufficient reasons to allow an idea disclosed in a US patent application to be used by foreign companies selling into American markets with no recourse for the true inventor unless the inventor so intended. Requiring an individual to see all the potentials of his invention from the earliest disclosure with the tide of technology changing as it does is simply impracticable. The US courts have already significantly impaired the value of patents by tending to require not only literal infringement but by requiring practically verbatim infringement of claim language and

disclosed embodiments. Limiting continuation applications essentially requires an individual to have a 20 year crystal ball with which to see all the technologies and application for which his invention may reasonably be applied when he drafts his claims. This is a fantasy requirement, not worthy of utterance by a practical and respected government institution such as the USPTO.

Wake up!! While the world has seen national powers historically shift as economies have shifted from an agricultural based economy to an industrial based economy to a technologically-based economy and with all indication pointing to the next economy being based on intellectual property (i.e., ideas), the USPTO weighs in on this issue by restricting or limiting one's ability to obtain patent protection for a valid ideas and for no other reason than procedural? These proposed rules changes are exceedingly short sighted and will hurt the US individual inventor, US corporations and the US as a whole in the 21st century and will significantly and negatively impact the competitive advantages of the USA. These changes will focus the patent process in the 21st century alright----NEGATIVELY.

Regards,

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