

From: Walsh, Brian
Sent: Monday, July 16, 2012 1:52 PM
To: seq_listing_xml
Subject: Comments on the Recommendation for the Disclosure of Sequence Listings using XML
(Proposed ST.26)

Attached please find Comments on the Recommendation for the Disclosure of Sequence Listings using XML (Proposed ST.26).

Brian

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July 16, 2012

Via Email – seq_listing_xml@uspto.gov

Mail Stop Comments - Patents, Commissioner for Patents
Attn: Susan C. Wolski
Office of Patent Cooperation Treaty Legal Administration
Office of the Associate Commissioner for Patent Examination Policy
P.O. Box 1450
Alexandria, VA 22313-1450

RE: Request for Comments on the Recommendation for the Disclosure of Sequence Listings using XML (Proposed ST.26)

Bristol-Myers Squibb Company (“BMS”) respectfully asks the United States Patent and Trademark Office (“PTO”) to consider the following comments on the PTO’s proposal to revise the standard for the disclosure of sequence listings from ST.25 to the XML standard and the consequent changes to the United States rules of practice.

The PTO indicates that it prefers to have a clean transition from the current World Intellectual Property Organization (“WIPO”) Standard ST.25 to the XML standard. The PTO proposes to accomplish this transition by requiring all sequence listings filed for the first time in an application (including continuation, continuation-in-part, and a divisional), at some future designated date (“XML Date”) to be filed in compliance with the new XML standard.

However, it does not appear certain that a tool to convert a sequence listing from ST.25 to the XML standard will exist at the time the rules will come into effect. Without such a conversion tool, patentees would have to recreate their sequence listings presumably using the new XML software when filing sequence listings in, for example, continuation applications. Not only does this create an undue burden and expense on patentees by compelling them to recreate hundreds of sequence listings in XML format, but it also raises the possibility that errors will be introduced into the converted XML sequence listing. Accordingly, in the absence of a reliable conversion tool, BMS recommends that any sequence listing submitted in a patent application having a priority date that predates the XML Date, may be submitted in either ST.25 or the XML standard, and that only those applications that claim priority to a date subsequent to the XML Date will be required to utilize the XML standard.

BMS appreciates the opportunity to provide its perspective on the PTO’s recommendation for the disclosure of sequence listings using XML.

Respectfully submitted,

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