

From: Childs, Carissa [mailto:cchilds@nixonpeabody.com]
Sent: Friday, November 27, 2009 12:06 PM
To: Ombudsman Program
Cc: Goldman, Michael (ROC TIP PARTNER)
Subject: Proposed Ombudsman Pilot Program

Dear Sir/Madam:

Please find attached our comments on the proposed Ombudsman pilot program.

Sincerely,
Carissa

Carissa R. Childs, Ph.D.

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November 27, 2009

VIA E-MAIL ombudsmanprogram@uspto.gov

Mail Stop Comments
Attention: Patents Ombudsman Pilot Program
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RE: Proposed Ombudsman Pilot Program

Dear Sir/Madam:

We appreciate the opportunity to offer comments in response to the Notice of the U.S. Patent and Trademark Office's ("USPTO") proposed Ombudsman pilot program and are writing to advocate the implementation of this program. We believe an Ombudsman program will provide a much needed, effective, and inexpensive means for advancing patent prosecution in applications that have stalled during examination.

In applications where examination has reached an impasse, we have found that examiner interviews can be a very productive approach to resolving examination issues, and we welcome the USPTO's recent emphasis on examiner interview training. However, we occasionally experience hesitation from some examiners in granting interview requests and cooperating to the extent needed to advance prosecution. Supervisor involvement has often been helpful in alleviating such problems, but, in our experience, this has not always been the case. We hope that in such situations the Ombudsman for the Technology Center where a particular application is pending can be empowered to serve as a neutral party resource to mediate the interview process.

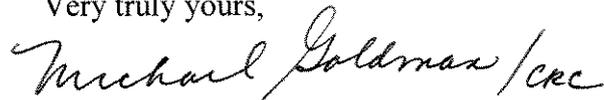
In addition to examiner interviews, we have taken advantage of the pre-appeal brief conference program. This program is designed to provide applicants with a formal panel review to identify the presence or absence of clearly improper rejections based upon error(s) in the facts, or to identify the omission or presence of essential elements required to make a *prima facie* rejection. Ultimately, this program is intended to spare applicants the extra time and expense involved in preparing an appeal brief if the panel decides that the application is not in

condition for appeal. However, since the review panel is to consist of the examiner of record, the examiner's supervisor, and only one independent examiner, we are concerned that the applicant's position may not be new consideration. Therefore, we would like to see the Ombudsman play a role in this procedure as an additional independent panel member to ensure a fair and thorough review of the issues.

Overall, we applaud the USPTO's consideration and implementation of the Ombudsman pilot program. We look forward to participating in the pilot program when the opportunity arises and hope that the USPTO solicits future review of the program to ensure that it is adequately meeting applicants' expectations.

Thank you for your consideration of our thoughts.

Very truly yours,

Handwritten signature of Michael L. Goldman in cursive script, including the initials "/cgc" at the end.

Michael L. Goldman

Handwritten signature of Carissa R. Childs in cursive script.

Carissa R. Childs