

From: Greg Howison
Sent: Tuesday, March 05, 2013 11:39 AM
To: RCE outreach
Subject: RCE practice

I have been practicing for over 30 years and I started prior to FWCs, CPAs and RCES.

- 1) RCEs as they sit are part of the practice and have always been there and are required to obtain the protection our clients want in those select cases;
- 2) Before all this RCE stuff, we just filed Continuations, as we received an Office Action within 2 months, so thing progressed very fast at the time;
- 3) This Continuation practice in 1981 was no more or less used than RCEs today. You need to go back and look at these statistics
- 4) The PTO figured that it was inefficient to start all over with a new Continuation where the old one was abandoned, so the instituted a File Wrapper Continuation, as what it did was take the old case, put all the papers in a new "wrapper" and start the prosecution where it left off. This alleviated the Preliminary Amendment, the deposit of all of this cited art, but it still had an issue as to the new File Number for each FWC. We filed as many FWCs as we do RCEs now – no difference;
- 5) The PTO then figured that all of the tracking of priority and new file numbers made no sense and was "inefficient";
- 6) The PTO then figured out that it was easier to keep the serial number and came up with the Continued Prosecution Application (CPA) to keep the same serial number – requiring no tracking of priority and the such;
- 7) This then morphed into the RCE we have today;
- 8) All of this recognized how we in the Patent Bar operate, and then they did all of this to improve the efficiency of taking an invention from filing to issuance;
- 9) So, if the PTO causes the response to an RCE to be delayed to equal that of a Continuation, there is a lot of benefit to just filing a Continuation;
- 10) If the price of an RCE goes up, we will just file a Continuation;
- 11) If we abandon and file a Continuation, this will really mess up your statistics;
- 12) No longer will each filing be subject to the same allowance "rate" due to all of the express abandonments;
- 13) No longer will you be able to correlate filings with issued patents;
- 14) I see no reason to go back to the inefficient procedures of 1981;
- 15) And, I think raising the fees is a big mistake and for what – to address the concern that examiners are having a hard time keeping up;
- 16) Surely, all of the new Continuations will bog the Office down more.

Regards

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