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To: preissuance_submissions
Subject: PRE-ISSUANCE SUBMISSIONS

USPTO,

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Proposed rule 1.290 limits the time period in which a third-party can file a pre-issuance submission. 1.290(b). The grant of a Request for Continued Examination (RCE) re-opens prosecution. For some purposes, the Office treats a RCE like a new application filing. Accordingly, it is not clear whether the filing of a RCE resets the time period for a pre-issuance submission under proposed rule 1.290(b)(2)(i).

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For example, suppose prosecution closes after an Examiner twice rejects the claims in a patent application. If the Applicant files a RCE, and the Office re-opens prosecution, may a third-party file a pre-issuance submission under new rule 1.290 prior to a "next" Office Action? In this instance, the "next" Office Action would be the "first" after the Applicant filed the RCE.

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Regards,
Steve