

From: JIngerman@fishneave.com

Sent: Tuesday, December 16, 2003 1:37 PM

To: eReference

Subject: Comments on e-Patent Reference Program

The undersigned would like to comment on the e-Patent Reference program recently announced by the Patent and Trademark Office ("PTO"). The undersigned has not yet used the feature, and does not expect to have any comments on the feature itself, but objects to the PTO no longer including hard copies of references with mailed Office Actions.

While the PTO has described the e-Patent Reference feature as an improvement, providing easier downloading of references, one imagines that the motivation for the feature is a savings in the cost of paper, toner, printer wear and tear, postage, and clerical personnel salaries. While such savings ultimately might be passed on to applicants in the form of lower PTO fees (or more slowly rising fees), the additional costs imposed on applicants in connection with downloading the references will swamp any such savings.

Applicants or their representatives also will have costs for paper, toner and printer wear and tear. And without the buying power of the Federal government that the PTO enjoys, those costs probably will be higher than the comparable costs to the PTO. But much more significant is the fact that the e-Patent Reference feature is available through Private PAIR, meaning that only attorneys and agents can access it. Thus, the PTO is shifting the printing of references from low-cost clerical staff at the PTO to high-cost professionals, increasing applicant costs by more than the PTO could possibly save by not printing the references itself.

Therefore, separate and apart from whether the references ought to be available online, they should continue to be mailed.

The problem highlighted above by the undersigned is just one symptom of a broader class of problem that arises from the use of the same credentials to validate PAIR access as to validate electronic filings. If a separate credential could be created for PAIR access that was not also a digital signature for filing purposes, it might be possible to provide PAIR access to clerical staff - say, to clerical staff vouched for by a registered attorney - so that attorneys would not have to perform clerical tasks for which clients would then be billed.

Although the undersigned is a partner in the New York intellectual property law firm of Fish & Neave, these comments are those of the undersigned alone and do not necessarily reflect the views of Fish & Neave.

Respectfully submitted,

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