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**From:** Earle Jennings [mailto:ewj@ix.netcom.com]

**Sent:** Sunday, March 05, 2006 9:28 PM

**To:** AB94Comments

**Cc:** Lucas, Jay; Toupin, James

**Subject:** Comment regarding the proposed rule change and its impact on fee calculations

Hello,

These comments refer to one specific element of the Patent and Trademark Office proposed rule changes. This is the first of several comments, which were discussed at the PTO Town hall Meeting Held in Berkeley in February.

The following is quoted from page page 63, 3rd column of the Federal Register Vol. 71, No. 1 (The bold face is done to focus your attention on the issue at hand):

"Proposed § 1.75(b)(2) provides for claims in dependent form that are effectively independent claims. Proposed § 1.75(b)(2) provides that **a claim that refers to another claim but does not incorporate by reference all of the limitations of the claim** to which such claim refers **will be treated as an independent claim for fee calculation purposes** under § 1.16 (or § 1.492) and for purposes of § 1.75(b)(1)"

I believe that this proposed rule change presents some significant problems:

1. Until now, the rules for fee calculation were pretty straightforward: basically an independent claim does not refer to other claims, a dependent claim refers to one other claim, and a multiply dependent claim refers to more than one claim. These rules were simple enough that both inventors and clerical workers could figure out the fee calculations, and be accurate. **With this rule change, there is no way for anyone short of a registered patent practitioner to be even close to certain what the fees for an application should be.**
2. Let us assume that an application includes a manufacturing process. According to what James Toupin and Jay Lucas said, claims to the product of a process as well as methods using that product would all have fees as independent claims. While there has been no presentation of the fee cost impact of this rule change, **it is likely that many applications will have higher filing fees with this change, possibly as much as double in some cases.**
3. Lastly, the fee calculation sheet is no longer a straightforward tool for finishing the application process. **Now it represents a legal opinion in many cases. Are the fee calculations going to be examined by an examiner? If not, what if there is a dispute, will it be grounds for an appeal, or will it need to be taken to Federal Court?**

I can only hope that you folks remove this proposed change. I do not believe anyone will benefit from it.

Respectfully Submitted,  
Earle Jennings  
Registered Patent Agent