

-----Original Message-----

**From:** yaodong.chen

**Sent:** Wednesday, June 01, 2005 10:13 PM

**To:** AB85 Comments

**Cc:** member\_ipbulletin.com

**Subject:** comments

To Whom It may Concern,

---- This is to comment on the proposed rule --- [Docket No.: 2005-P-053] RIN 0651-AB85 Provisions for Persons Granted Limited Recognition To Prosecute Patent Applications and Other Miscellaneous Matters.

It might be helpful to have the term "patent practitioner" to be used in place of "registered patent attorney or agent" in § 1.31, and in other rules. However, it need more modification to facilitate the legal practice of alien practitioners.

Proposed new § 1.32(a)(1) defines the term "patent practitioner" as "a registered patent attorney or registered patent agent under § 11.6, or individual granted limited recognition to file or prosecute a patent application, or other patent proceeding, before the United States Patent and Trademark Office under § 11.9(a) or § 11.9(b)." It is recognizable that the proposed rule is to acknowledge the authorized practice of a person with limited recognition pursuant to § 11.9(a) and § 11.9(b). Unfortunately, the proposal still indicates that a person with limited recognition pursuant to § 11.9(a) and § 11.9(b) is not a registered patent practitioner.

It has been a rule that limited recognition pursuant to § 11.9(b) is granted to individuals who have passed the patent examination and are U.S. residents, but are neither citizens of the U.S. nor permanent residents. In most of the cases, an alien practitioner works in this country as an OPT (optional practical training) student or a H1B specialty worker. These two status has strict restrictions. OPT only gives one year work permission; H1B limits the alien works for the sponsor only. It isn't the job of patent rule to impose another fetter. The proposed § 1.32(c)(3) to add a limited recognition number of record is superfluous. For patent practitioner, 8 CFR § 274a.12(b) guarantees scientifically trained aliens work legally only in a "limited" manner, why bother to put another "limited recognition" on them?

Under § 10.7 Requirements for registration, the criteria for registration are:

(1) Apply to the Commissioner in writing on a form supplied by the Director and furnish all requested information and material and

(2) Establish to the satisfaction of the Director that he or she is:

- (i) Of good moral character and repute;
- (ii) Possessed of the legal, scientific, and technical qualifications necessary to enable him or her to render applicants valuable service; and
- (iii) Is otherwise competent to advise and assist applicants for patents in the presentation and prosecution of their applications before the Office.

There is no alien status limitation by law. Legally working alien practitioner should be granted full registration. Patent practice is getting globalized. If we have the confidence of a better patent system, opening registration to the qualified alien patent practitioner under the US rule will greatly promote the American patent rational to the international arena.

The undue burden to the qualifying non-immigrant alien practitioners comes from another inconsistency: they can not get registered upon passing the examination, but under the REGISTRATION DEADLINE, they must complete the registration process within two years from the date notice is sent to the applicant. For those alien practitioner continuing to work beyond the second year as a patent practitioner in this country, the rule will unreasonably force them retake the registration exam. ( See 37 CFR 11.8 (c) An individual who does not comply with the requirements of paragraph (b) of this section within the two-year period will be required to retake the registration examination. )

For the above reason, it would be a more justified proposal if the unnecessary "limit recognition" was removed and give the full registration to the qualified alien practitioner. Under 8 CFR § 274a.12(b), there is no need to worry about non-immigrant alien practitioners wandering out of their "limitation". Thus, there is no need to awkwardly add a term of "patent practitioner" to accommodate a pointless segregation of two kinds of practitioner.

Since it is already legally limited, why not give qualified non-immigrant alien practitioners full registrations?!

Thank you for your attention to this comment.

Respectively submitted,

Ydong Chen