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General Comment: As an independent inventor who has self-prosecuted three U.S. patents, I feel the proposed rule changes will impact me significantly along with my fellow independent inventors who proceed on their own. I received US 6,285,303 for a method of converting a truth or logic table from a tabular format into a parameter format; US 6,694,175 for teaching practitioners of in vitro fertilization that the personal body temperatures of pre-implanted infants (i.e., human embryos or hatchlings) must be monitored distinctly to ensure proper thermoregulation, rather than making the mistake of relying solely on a measure of the environmental temperature inside an incubator in place of each patient's temperature; and US 6,959,314 for a method of translating Boolean algebra, the binary language of computing, into basic algebra, the basic language of mathematics. The latter patent recently received an honorable mention from the Modern Marvels Invent Now? Challenge, presented by The History Channel? and Invent Now?, Inc., a division of the National Inventors Hall of Fame? Foundation. The proposed rule changes take up the issue of streamlining the patent process and reducing the backlog of unexamined applications. In certain technology areas, independent inventors are less likely to benefit from ?patent pending? status compared to their corporate counterparts because 1) they do not have the resources to market their inventions on their own, and 2) many serious investors, e.g., corporations, will not look at their ideas until they are actually patented. Therefore, it would be of significant benefit to independent inventors to reduce the time taken to obtain a patent. Unfortunately, the proposed rule changes may actually work against independent inventors who are prosecuting their applications on their own. More importantly, the proposed rule changes fail to address the bulk of the problem underlying the backlog. To appreciate the underlying problem, recourse to statistics is helpful along with insight into the general value of inventions. The Patent Office is a division of the Department of Commerce. The word commerce is a compound derived from the words ?common? and ?mercy?. Through commerce we show ?common mercy? for the sum of our needs. Inventions play an important role in commerce by helping us to satisfy our necessities with remarkable intelligence. For this reason, a well-constructed patent disclosure contains a statement of why the invention is needed along with an explanation of how the invention satisfies the stated necessity. The Department of Commerce and, in turn, the Patent Office have a compelling interest to promote significant advancements in the form of new inventions to satisfy our necessities. However, it goes without saying that not all inventions are as significant as, say, the light bulb. Some inventions take us leaps and bounds beyond where we were before, while others seem to graft small improvements onto existing ideas. Most authorities seem to agree that inventions produced by independent inventors account for about half, or 50%, of the most significant advancements forward. Yet, independent inventors account for only about 8% of the regular (nonprovisional) applications for utility patent filed at the Patent Office. To examine this contrast statistically, it is helpful to create a statistic called the ?significance ratio?, determined as a given group's share of significant advancements compared to its share of the number of applications filed. For independent inventors, the significance ratio is 50/8. In other words, they claim 50% of the most significant advancements forward, distributed among 8% of the regular applications for utility

led. In contrast, the significance ratio for non-independent inventors
nce they account for the remaining 92% of regular applications filed.
ly, it is found that the significance ratio for independent inventors is
er than that for non-independent inventors! In other words, applicatio
on, you are 11.5 times more likely to pull a significant advancement ou
labeled "independent" than you are from the pile labeled "non-
it". This suggests that independent inventors should have pay less than
what their counterparts pay, or the Patent Office should not object to
up to 11.5 times the work in "dealing" with non-independent inventors,
ir relatively high significance ratio merits the added involvement. At
se the Patent Office has a compelling interest to promote significant
its, it behooves the Patent Office to encourage non-independent
to improve the significance of the inventions they submit; the Patent
ould also expedite the applications of independent inventors, as befits
on for their higher significance ratio, for in turn this will shorten t
market their significant advancements to the public. Perhaps more to th
e Patent Office should discourage large academic institutions and
ons from sending in so many trivial ideas for patenting, which places a
rden on the patenting process itself and slows things down for
On the academic side, the publish-or-perish problem all too often take
of patenting. On the corporate side, a patent provides a relatively
re yet elegant way to promote employee recognition while at the same
raging awareness of the importance of intellectual property. These
likely explain the bulk of the backlog, since these entities are not
d from presenting numerous applications of minimal technological
gling out large academic and corporate entities within the non-
it inventor group is important because small entity non-independent
for example, small technology ventures, probably have a higher
ice ratio within the non-independent inventor group. Also, within the
it inventor group, there are those who are not properly aware of the
a patent application, and this lowers the significance ratio somewhat
ly, if only large entity non-independent inventors, i.e., big academic
ns and corporations, are compared to independent inventors who
l the meaning of a patent application, then these independent inventors
s roughly around 15-20 times more likely to submit a significant
t, application for application, than their academic and corporate
ts having large entity status! However, in addition to the problem of
latively insignificant ideas coming from large academic institutions a
ns, another problem contributing to the low significance ratio of the
t inventor group is the excessive use of continuation-in-part
ns, which large entities can more easily afford compared to small
In effect, this multiplies the number of applications following upon a
rtantly, combined with the number of "new" applications being submitte
ntities, this also contributes substantially to the backlog. In this r

logistics of continuation-in-part applications needs to be improved, which is a problem affecting inventors of all kinds. Unfortunately, rather than taking a commonsense approach, a problem with the present rulemaking suggestion is that it creates an opportunity for an excuse pattern. In other words, powerful attorneys employed by big academic and corporate institutions will undoubtedly be fluent in the art of making excuses, in contrast to small entity inventors who will be at a disadvantage. Ironically, this places the greater burden on groups that are not the source of the problem in the first place! Accordingly, the logistics of the proposed rulemaking changes are flawed and should be automatically rejected as an attempt to address the main sources of the problem of backlog. Taking a deeper look, it is important to consider the "new matter" problem that often results in an unnecessary need for a continuation-in-part application in the first place. Two examples are given to help clarify this problem. For example, I wrote the claims of a Boolean algebra patent using a style similar to the claims of my earlier logic gate patent. Both sets of claims have a mathematical sound to them. But by the time the latter patent was examined, the Examiner said that the phrase "implemented by a computer" had to be inserted to clarify that this process was not being performed mentally. I mentioned that my previous patent did not require this language. Yet the Examiner informed me that there had been a change in the law since then and that this sort of language is now required. Fortunately, the original application had a sentence reading that the invention is best practiced as a software implementation. Without this sentence, the Examiner indicated that the words "implemented by a computer" would not have found support in the original application and would constitute new matter. The application would have been rejected and I would have had to file a continuation-in-part in order to obtain the patent! So, to avoid this type of problem, when the applicant and Examiner agree on a remedy based on ordinary skill, the applicant should submit a test case to add new matter based on ordinary skill, with an appropriate fee, which would be a variable within a set range depending on the amount of work it will take the Examiner to consider it. (The second example, below, considers a case where substantive new matter is added.) In contrast, as an appropriate test, a continuation-in-part application should be reserved only for cases in which the proposed new matter added would have resulted in a divisional application had it been included in the original. For another example, suppose I write an application in a fast-moving technology, but by the time the Examiner has a chance to look at it, I realize that I will need to make a few changes in order to keep the technology up-to-date. So I file a continuation-in-part to add new matter. But then, after I have filed the continuation-in-part, yet before the Examiner has had a chance to look at it, I realize I need to make some more changes that will constitute new matter. At that point, based on the present rules, I would have to file yet another continuation-in-part. Instead, to avoid this absurdity, the filing date of the original application should have the same meaning of protecting inventors who have disclosed their inventions within one year of the filing date of the original, and it should also establish

priority
for the matter originally disclosed. In each case where new matter is entered in
the original application, the applicant should note whether the new matter is
inventive or based on ordinary skill. If the Examiner and applicant agree that it
is
inventive, then the date upon which the inventive new matter was added should be
noted in the application for priority purposes. This practice would explicitly r
eflect
the fact that inventive new matter cannot benefit from the original filing date
anyway, even if added in a continuation-in-part application. Again, only in case
s
where inventive new matter would result in a divisional application should a
continuation-in-part be added to the parent application. It may be noted that th
is
limitation will also eliminate the problem of patentably indistinct claims being
present among parent/child applications. However, even with this limitation,
additional limitation is needed regarding the problem of divisional applications
themselves. When approaching a potential need for a divisional application, the
Examiner should first question whether a technical remedy is possible to preserv
e
a single application. This greatly reduces the burden on those who study patents
,
including examiners, since unnecessary divisional or continuation-in-part
applications serve to duplicate the amount of reading required. It also creates
an
added expense of prosecution and maintenance, a problem that especially
impacts small entities such as independent inventors. It may be noted that a
graduated fee scale for adding new matter to the original application will be mo
re
likely to reduce successive additions of new matter than a flat fee for continua
tion-
in-part applications. In other words, each time a request to add new matter to t
he
original application is presented, the fee may be successively increased.
Exceptional cases, where the applicant can show that the need to add new matter
is beyond the applicant's control, yet will benefit the quality of the disclosur
e, can
be reduced in fee down to the first time fee level, either upon petition or by
approval of the Examiner. Examiners may receive credit for considering new
matter requests? in place of giving them credit for considering continuation-in-
part
applications. In conclusion, the proposed rulemaking, though valid in its intent
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would be better if modified in a manner adapted to 1) promoting an increase in t
he
significance ratio associated with applications, 2) streamlining the way in whic
h
inventive and non-inventive new matter may be added to a single application, and
3) limiting the need for divisional applications. Unfortunately, in its present
form,
the proposed rulemaking will not accomplish these goals and instead will mainly
add burdens to independent inventors and other small entities. For these reasons
,
I strongly oppose the proposed rulemaking, yet at the same time I strongly
encourage the Patent Office to pursue its goal of streamlining the patent proces
s.
Please join me in supporting the vision of working together to achieve cogent, u
p-
to-date, and technologically complete disclosures, without errors, and without
redundancy in view of related parent/child teachings; please also join me in

porting a streamlined way of adding new matter to a single
1 employing continuation-in-part applications for this purpose
reduce the need for divisional applications.