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From: Mike Wach [mailto:mwach@bellsouth.net]
Sent: Wednesday, May 03, 2006 11:57 PM
To: AB93Comments
Subject: Comments on Proposed Rules: "Changes to Practice for Continuing Applications ..." 71 Fed. Reg. 48 (January 3, 2006)

The Honorable Jon Dudas
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office

Attn: Robert W. Bahr
Senior Patent Attorney
Office of the Deputy Commissioner for Patent Examination Policy

Comments on Proposed Rules: "Changes to Practice for Continuing Applications, Requests for Continued Examination Practice, and Applications Containing Patentably Indistinct Claims" 71 Fed. Reg. 48 (January 3, 2006)

Dear Under Secretary Dudas:

I am opposed to and concerned about the proposed revision of the patent rules of practice entitled "*Changes to Practice for Continuing Applications, Requests for Continued Examination (RCE) Practice, and Applications Containing Patentably Indistinct Claims*" (the "Proposed Changes"), published by the U.S. Patent & Trademark Office ("USPTO") on January 3, 2006, at 71 Fed. Reg. 48.

As an inventor of 20 granted U.S. patents for advanced optical technologies that have received international recognition, served as a foundation for new business, and attracted significant levels of venture capital, I feel I am qualified to comment on the Proposed Changes. The current complexity of the United States' programs for protecting intellectual property often hinders small business and individual inventors from accessing patent protection. Recognizing this issue, I have become a registered patent agent, Registration Number 54,517, and help others navigate that complexity. Accordingly, I appreciate the complexity of obtaining patent protection from multiple vantage points. Rather than simplifying the patent system, I fear the Proposed Changes will create more complexity and uncertainty and more hurdles that will alienate innovators, motivating

them to pursue activities that bring far less benefit to society than their inventive endeavors.

I am also concerned about the negative impact that the Proposed Changes are likely to have on an innovator's ability to secure patent protection for the full scope of his innovation. Patent drafters are not perfect; claims are not perfect; inventors are not perfect; examiners are not perfect. Accordingly, each of these parties may make an error or an oversight – an error or an oversight that today is addressable via continued examination practice but might not be addressable if the Proposed Changes are adopted. The stakes are high as the technology under examination could be a revolutionary cancer treatment, provide a lynch pin for a new industry, or represent an individual's life savings. The Proposed Changes may undercut an inventor's ability to address an error or an oversight and thereby compromise his ability to secure the patent protection that he deserves. While improving prosecution speed is desirable, inventors are far more concerned with obtaining sturdy claims that protect their legal rights. Expeditious examination is not worth restricting access to continued examination practice and smothering the fire of innovation in the United States.

Finally, the Proposed Changes are likely to create rather than solve problems for the USPTO. Skilled patent practitioners will certainly seek novel ways to secure patent protection for their clients, perhaps filing numerous applications directed to slight variations of an invention, perhaps filing dozens of highly focused applications. The techniques that they will develop if the Proposed Changes are instituted may clog the USPTO with more applications or have some other as-yet-unknown detrimental impact on the operations of the USPTO.

While I applaud the USPTO's goals of efficiency, quality, and innovation, the Proposed Changes undermine those goals. I respectfully request USPTO to <u>not adopt</u> the Proposed Changes.

Respectfully,

Michael L. Wach

Inventor, Entrepreneur, Registered Patent Practitioner (No. 54, 517)