

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

**From:** James Yang [mailto:protectmyidea@yahoo.com]

**Sent:** Friday, April 28, 2006 8:04 PM

**To:** AB94Comments

**Subject:** Comment on Propose Rules published at 71 Fed. Reg. 61 (January 3, 2006)

Dear Under Secretary Dudas:

This comment relates to the proposed rules published at 71 Federal Register 61 (January 3, 2006) directed to current claiming practice. I support the Office's effort to provide quality examination and a more expedient examination process. I believe that the patent system is a vital part of the economy of the United States. Great care and thought should be given when proposing broad sweeping changes.

According to the USPTO, the vast majority of applicants for patent do not engage in excessive claiming practice. In fact, only 1.2 percent of the applications have an excessive number of claims (i.e., application having more than 10 independent claims). The USPTO presentation slides state that the proposed rule changes regarding claiming practices **will not affect a majority** of the patent applications. Unfortunately, the rules apply to **all** applicants even though the majority of applicants are not engaging in excessive claiming practices.

The solution I suggest is a three tiered approach. The first tier allows 3 independent claims with twenty possible claims. The second tier would activate a very high surcharge for any number of independent claims above 3 and for any claims in excessive of twenty claims. The third tier would address those who engage in what the USPTO calls excessive claiming practices. The third tier permits more than ten independent claims and more than thirty total claims only upon a showing that the invention could not be claimed with the available number of independent and dependent claims available in the first and second tiers. The number of independent and dependent claims may be adjusted to effectuate the desired results.

I appreciate the opportunity to comment on the Office's proposed rules.

Very truly yours,

James Yang