

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

From: Paul Tomita [mailto:ptomita@dergnoah.com]

Sent: Tuesday, May 02, 2006 5:45 PM

To: AB93Comments

Subject: Comment against changing continuation practice

John Doll

Commissioner for Patent

RE: Continuation practic

Dear Commissioner Doll

I have been a patent attorney for 8 years. I have never commented on a proposed rule change until now. I strongly oppose the proposal to allow only one continuation. If the rules change without my comments then I deserve to suffer the consequences.

I attended your public meeting at UC Berkeley in Feb 2006. During this meeting, there was an explanation regarding a trend in the increased time period from filing to first examination. I object to this reason for this rule change. While this may be true for some art groups, it has been my experience that the vast majority of my applications have been examined in a timely manner. I have never had a client complain about the time required to examine their applications. The argument that applications are not being examined in a timely manner is in my opinion unreasonable. The charts illustrating the hazards of the continued trend seem to be self serving. If the rule change is purely about time to examination, you should conduct a poll of inventors and practitioners asking if they would rather have shorter time to first office actions under the condition of a single continuation. Alternatively, you should consider providing an option for petitions to make special with a condition that only one continuation would be allowed in exchange for faster examination.

There are various other reasons that the proposed continuation rule change is objectionable. For example, the change would puts the US at odds with global harmonization of patent rules. Under EPO rules, any number of divisional applications may be filed.

I sincerely hope that you will reconsider this rule change.

Respectfully,

Paul Tomita

Reg No. 43,196