

RICHARD B. BELZER

January 8, 2010

David J. Kappos
Under Secretary of Commerce for Intellectual Property
Director, U.S. Patent and Trademark Office
Alexandria, Virginia 22313

RE: (RIN 0651-AC37) Rules of Practice Before the Board of Patent Appeals and Interferences in Ex Parte Appeals; Request for Comments on Potential Modifications to Final Rule and Notice of Roundtable During Comment Period (74 Fed. Reg. 67987, December 22, 2009)

I am pleased to have an opportunity to comment on this Advance Notice of Proposed Rule Making (ANPRM). I previously contributed comments on USPTO's October 9, 2008, Information Collection Request related to this rule, which can be downloaded at http://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=200809-0651-003.

This is a very important ANPRM that deserves a full and fair public vetting. However, a full and fair public vetting seems very unlikely to occur. USPTO published the ANPRM three days before Christmas, when most people were away from work and thus unlikely to even become aware of it until early January. In addition, USPTO has given the public an unreasonably short period to analyze the notice and prepare informed comments. The Patent Office itself took more than one year to reconsider its 2008 final rule, which it stayed indefinitely on December 10, 2008, but it proposes to allow the public just 52 days, much of that consumed by holidays, to formulate responses. This does not bespeak an agency that is trying to overcome well-known defects in its administrative practices regarding public participation.

USPTO also has scheduled a roundtable meeting for January 20, 2010, to discuss the notice. However, for reasons it has not divulged, the Patent Office has given the public only five days – until January 25, 2010 -- to submit comments on “other matters discussed at the roundtable,” whatever they might be. This deadline is utterly unreasonable.

For these reasons, I respectfully ask you to immediately extend the deadline for public comments on both the ANPRM and the roundtable to a date no earlier than March 21, 2010 -- 60 days after the roundtable.

Sincerely,



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