From: Martin Keller [email redacted]

Sent: Monday, May 04, 2015 12:10 PM

To: WorldClassPatentQuality

Subject: Re: improving patent quality.

One other note. The idea of automated pre-examination searches. Well, you can not have a machine replace the human factor. There are far too many factors in a search that require the human experience when looking at the art for relevance.

On Mon, May 4, 2015 at 11:44 AM, Martin Keller [email redacted] wrote:

Dear Michael Cygan:

I was very pleased to see that the PTO is asking for input on improving patent quality, and I can not stress enough that my thoughts below are sincere and inline with many other professionals in the IP field.

A very simple and very effective way to World Class Patent Quality is to start with a solid pre-app search. Ask any patent practitioner the key to writing a quality patent application, and the answer is always the same, (knowledge of the best prior art). Knowing the best prior art helps structure the application and claims. In addition, an application filed with a solid 1449 gives the examiner a head start and dramatically reduces the time spent overall in the prosecution of the application. For almost 100 years, starting in 1790, you guys at the PTO use to require a scale model of an invention. Of course this would be burdensome and somewhat useless in today's patent world. But requiring a solid search would not be difficult at all. A solid pre-application search would greatly assist the applicant and the examiner. I can not stress enough, that quality starts at the starting point of the entire process - the pre-app search.

Think about the amount of time it saves, not just initially for the examiner, but for the applicant's attorney/agent when it comes to amendments.   and for the Examiner, an application written with no knowledge of the prior art could have claim after claim that needs a rejection and justification of the prior art applied by the examiner. This is a major time and quality issue in the prosecution of a case.

I actually had a conversation with another searcher, with a few less years experience than myself, on his thoughts on this. He suggested an automated metrics system he had in mind and it was the most useless waist, but many others have had the same thoughts as I. The need for good pre-app searching. I even have a few clients that will not write an app for a client unless a search has been done. "Imagine billing a client for writing an app - and later a 102b ref is found". Not happy clients, I was told.

Please feel free to contact me if you would like to discuss this further. I honestly believe that the AIA changes of "first to file", has been a detriment to the quality of our patent system, as it seems filings are being done in a rush and many with no 1449. In fact, I took the time to examine a few hundred recently issued patents through PAIR, and the vast majority had no 1449, with all the art being cited by the examiner.

Best regards, Martin

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