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Sent: Wednesday, May 06, 2015 1:54 PM
To: WorldClassPatentQuality
Cc: Jay Kesan
Subject: Comments on Enhancing Patent Quality

Please see the attached document.

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The Hon. Michelle K. Lee
Under Secretary of Commerce
Director, U.S. Patent and Trademark Office

Via e-mail

Re: Requests for Comments on Enhancing Patent Quality

May 6, 2015

Dear Director Lee:

We greatly appreciate the USPTO's outreach to the community in its efforts to enhance patent quality. We write in response to the USPTO's requests for comments on enhancing patent quality.

As academics who research and teach in the area of patents, we commend the USPTO on attempting to improve its patent operations and procedures. We believe that sensitive and effective reforms could pay dividends for users of the patent system, including inventors, assignees, competitors, improvers, and others affected by the system. We support the USPTO's efforts and want the USPTO to be as successful as possible in its enhanced quality initiative.

We write this comment not to offer specific reform proposals. Instead, we write to encourage the USPTO to conduct and rely upon empirical and data-driven studies to improve its operations and procedures. An objective, data-driven approach permits the rigorous examination of potential changes to operations and procedures. Rather than relying upon the views of dominant stakeholders, an empirical approach could permit the USPTO to assess the success or likely success of various alternative proposals for reforming processes and procedures within the USPTO.

We believe that the data-driven studies can come from a variety of sources including sources inside and outside the USPTO. By releasing more raw patent-related data, the USPTO can facilitate academic research into the patent system. The USPTO's recent release of patent and trademark assignment data, as well as its forthcoming release of PAIR data, is a step in the right direction. Raw data, especially on a very granular basis, form the basis of numerous potential academic studies. In addition to academic studies, the USPTO can study itself using data-driven methods. No matter who conducts the studies, empirical studies may be able to locate trends in USPTO operations and procedures that are difficult to identify, the proverbial forest from the trees.

Additional empirical work, either from the USPTO or outside, will aid the USPTO. Credible empirical studies will permit the USPTO to evaluate potential positive and negative effects as it considers any internal reform.

Separately, we believe that the USPTO should embrace randomized controlled trials or experiments (RCT), either conducted by the USPTO itself or in coordination with appropriate academics. An RCT is one in which participants are randomly assigned to a treatment or control group. If done properly, after randomization, the differences between the groups should be caused by the treatment they receive. RCTs are considered the 'gold standard' in evaluating the effectiveness of a proposed change. In the context of the USPTO, RCT could be utilized to soundly and objectively evaluate changes in patent examination, and other proposed changes in USPTO operations and procedures.

In summary, as academics we strongly recommend that the USPTO focus more acutely on data. Through releasing more raw data to the community and analysis internally, the USPTO should use a data-driven approach to evaluating potential improvements in USPTO operations and proceedings.

Respectfully submitted,
/s/

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