



Obama Transition Team Patent Reform One Pager

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There are 3 issues I didn't get a chance to voice my opinion on. Two I will cover on this page. The third being a bit more complicated I will cover on a separate page.

First I believe an independent inventor should be defined as one who controls their own research, regardless of the size of the company. Edison was an independent inventor. This independence allows for greater creativity but put the burden of financial responsibility on their decisions. The larger the company the greater the collateral responsibilities. However, most independent inventors do fall into the category of very small companies.

Edison's employees, although considered co-inventors, were working under his direction and therefore not independent. Just like inventors working for universities and industry (both large and small), they give up the independence of controlling their own research for the stability of financial security.

Next, there is a large network in place to support the new independent inventor and more should be added. However, by the time they find this information, many have spent a small fortune with unscrupulous invention promotion companies or on useless patents for products that are insignificant improvements on existing technologies down to totally useless or unnecessary inventions. We need to get to these people sooner.

I propose a TV commercial were Mr. Obama gives a "call to arms" for independent inventors as one of the many possible solutions to our present economic crisis. He could mention a few products, which have created industries that have come out of the basements and garages of these inventors. Even the lowly "Pet Rock" added jobs to the manufacturing, trucking and sales industries.

"To help facilitate this effort this administration has compiled a..." free brochure with contact information on educational support programs like the UIA for local club membership but also on prototyping (importance of and how to), business strategies, market assessment, etc. or an actual booklet with short articles on the same topics along with the contact information. Of course the USPTO would be in there as the main source of patent information, resource center and conferences.

The speech could end with a parody on the famous Winston Churchill quote, "We will provide the tools so You can get the job done".



The Designated Field of Search

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Most of the problems in patent prosecution result from a disagreement between the examiner and prosecutor as to the essence of the invention and the applicable prior art. Until the patent issues it is impossible to determine what the inventor will own.

Also, in an effort to increase the efficiency of patent prosecution, the USPTO has been exploring options regarding the time examiners spend doing the prior art search. Out sourcing it over seas was even brought up at one point. There is a form of support already in place where an applicant can contact an examiner and request a field of search on a proposed invention. However, this is a very nebulous program and more then likely the inventor would contact the wrong art department.

I propose a more structured program called the “Designated Field of Search” where the participant would submit a “Short Treatment”, which is a bare bones, description of the invention, similar to the specification section of a normal patent application, informal “Drawings” and a list of “Claimable Attributes” (what they plan to claim) in plain English without any of the formalities required in a normal patent application. These would collectively be known as the “Request”.

This would then be filtered through the normal process to the correct department and examiner, who would then determine what objections they would have and what prior art would be applicable, specifying class and sub-class search patterns including any other materials deemed appropriate. This would be similar to examiners objections to the claims now in place but up front before the actual patent application is filed.

There would be a fee to cover the expenses plus a deposit in case of rejection. The deposit is based on the examiner not having to spend all the time necessary to do a full search. I do expect he/she will still find some relevant prior art possibly not covered by the designated search once the actual patent application is filed. However, if the “Request” and the claims of/or the actual utility patent application differ significantly, the examiner would have to do a full search and retain the deposit to cover the cost of that work.

One of the objectives is to replace the present adversary relationship with the comradery of starting on the same page progressing towards the common goal of a high quality patent in the lest amount of time. In essence it would create a dialog between the examiner and the prosecutor to determine the extent of patentability of the potential invention so when the actual application is filed it should be a simple matter to verify that the content and verbiage agrees with the original “Request”.

It could first be tested as part of the accelerated electronic program’s patenablitiy report, then (if proven viable) incorporated into the main stream.

I believe this program will reduce the number of frivolous patent applications by giving the inventor better tools to assess the viability of their proposed products before making a large financial commitment, possibly lower the cost of the application for the inventor, reduce the burden of the search on the examiner, reduce the time and expense of prosecution for the inventor and the USPTO as most of the issues are addressed up front and improve the quality of the patent by getting to the heart of the matter in a timely manner.

If you are interested, I would be happy to go into more detail, including safeguards (such as oaths, disclaimers, etc.).