



NEW US PATENT OFFICE RULES ENJOINED BY FEDERAL COURT

In a stunning but widely-heralded move, a Federal Court has issued a temporary injunction that blocks the new patent claim and continuation rules from taking effect tomorrow, November 1, 2007.

Earlier today, on October 31, the U.S. District Court for the Eastern District of Virginia granted an emergency injunction barring the U.S. Patent and Trademark Office (USPTO) from implementing new patent prosecution rules that were scheduled to go into effect on November 1, 2007. These new rules would have placed significant new burdens and limitations on the ability to patent new inventions in the United States. The rules would also have retroactively impacted all pending patent applications not yet examined by the USPTO. The ruling was the result of a lawsuit recently brought against the USPTO by GlaxoSmithKline and then joined or supported by numerous companies and trade associations. The lawsuit sought to enjoin enforcement of the new rules on various grounds, including the widespread view that many companies and inventors would be irreparably harmed by the new rules. An emergency hearing on that case was held this morning, and Federal Judge James C. Cacheris issued his ruling shortly after noon.

The ruling is only a temporary measure in a long campaign -- battle over numerous aspects of patent reform has just been joined. Unless the USPTO voluntarily withdraws these rules (which is a possibility), the Federal Court will decide in the next few months whether the temporary injunction blocking these rules will be made permanent. Another fight is also looming in the U.S. Senate, where a patent reform bill, also containing many provisions widely believed to be harmful to innovation, is up for passage. Much of the patent reform fight at the USPTO and in Congress has pitted big pharmaceutical companies, small companies, and individuals against big information technology (IT) companies, who often and rightfully complain about defending frivolous patent infringement lawsuits. Interestingly, the biggest patent owner and one of the biggest IT companies in the world (IBM) filed an affidavit opposing the new rules because of the tremendous cost of compliance (IBM estimated that these new rules would have cost them in excess of \$10 million to implement).

Morris, Manning & Martin, LLP is actively monitoring these developments and prepared to advise clients about movements in patent reform. Seminars regarding the patent law changes will be offered to firm clients and other qualified interested persons on November 7, November 14, and November 15, 2007.

If you are interested in attending any of the upcoming seminars, please contact Barbara Honeysucker at events@mmmlaw.com or call 404.504.7634 for further information.

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