

## **Exhibit 3**

**“Proposed Rule Changes to Focus the Patent Process in the 21st Century” page  
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27235644/www.uspto.gov/web/offices/pac/dapp/opla/presentation/focuspp.html](http://web.archive.org/web/20060427235644/www.uspto.gov/web/offices/pac/dapp/opla/presentation/focuspp.html)**



## United States Patent and Trademark Office

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### Proposed Rule Changes to Focus the Patent Process in the 21st Century

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## Background

The U.S. Patent and Trademark Office continues to propose new initiatives to make the Office more efficient, to ensure that the patent application process promotes innovation, and to improve the quality of issued patents. These pages have been developed to provide full transparency to the public about these ongoing efforts. We inaugurate these pages with information about rules proposed on January 3, 2006 related to claims practice and continuation practice. These proposed rule changes will make the patent examination process more effective and efficient by reducing the amount of rework by the USPTO and reducing the time it takes for the patent review process. In addition they will improve the quality of issued patents and ensure that the USPTO continues to promote innovation. The information below includes an overview of the challenges the USPTO faces, the reasons why proposed new rules are necessary, the proposed rule changes, and supporting material. We have also included a schedule of dates and places where USPTO representatives will make presentations concerning the proposed rules. We will continue to update these pages as new information or proposals are unveiled.

## USPTO Chicago and Berkeley Town Hall Meetings Discuss Proposed Rule Changes to Focus the Patent Process

Since February 1, the Commerce Department's United States Patent and Trademark Office (USPTO) has provided nearly 500 patent attorneys, patent agents, independent inventors and members of the small business community in Chicago and a similar audience of 400 in Berkeley with background information regarding proposed new rule changes. In Chicago, Commissioner for Patents John Doll and the agency's general counsel, James Toupin, discussed the challenges the USPTO faces and the reasons why the proposed new rules limiting claims and rework are necessary. Thereafter, they took questions from the audience. In Berkeley, Under Secretary Jon Dudas, Deputy Commissioner for Patent Examination Policy Jay Lucas and Mr. Toupin led the event.

Specifically, these initiatives will prioritize the claims reviewed during the examination process and better focus the agency's examination of patent applications by requiring applicants to identify the most important claims to the invention.

The recognized value of patents to innovation has led to enormous increases in the number of patent applications filed each year. Since the USPTO's resources have not increased at the same rate as filings, it has become much more difficult to provide reliable, consistent and prompt patentability decisions. Delay in granting a patent can slow new products coming to market, and issuing patents for inventions that are not novel and non-obvious can impede competition and economic growth. Simply hiring more patent examiners will not slow the growth in the time it takes to get a patent or improve the quality of examination. This will occur only through the participation of applicants in facilitating more effective and efficient patent examination.

"Improving the patent process will take everyone working together-applicants and the USPTO," Under Secretary of Commerce for Intellectual Property and Director of the U.S. Patent and Trademark Office Jon Dudas noted earlier. "Better quality applications mean better examination. We need more focus throughout and closure to the examination process."

In FY 2004, almost one-third of the 355,000 new patent applications had already been reviewed and rejected by the USPTO, but applicants resubmitted them mostly with only minor changes. Also, over 40% of new applications in FY 2004 had more than 20 claims. These practices waste the limited time examiners have to review an application and prevent examiners from

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focusing on the most important issues in an application.

In the past two years, the USPTO has instituted a number of measures to improve patent quality and also has implemented new metrics to measure the results. Results indicate that quality is improving. The percentage of patent examiners certified for promotion to full performance level increased from 59% in FY 2004 to 70% in FY 2005. The number of office actions complying with applicable laws and rules during examination improved to 86.2% from 82% the previous year. The compliance rate for final allowances improved from 94.8% to 96% from FY 2004 to FY 2005.

**[Complete slide set presented at this Town Hall Meeting \(html version\) \(zip version\)](#)**

For background and justification, see **[slides 8-30 and 48-60](#)**.

For proposals on continuations, see **[slides 31-38 and 72-85](#)**.

For proposals on claims, see slides **[39-47 and 61-71](#)**.

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## 1. Claims Practice

Federal Register - 71 *Fed. Reg.* 61 (03 January 2006)

Official Gazette

Topics: **[Changes to Practice for the Examination of Claims in Patent Applications, Notice of proposed rule making \(03Jan2006\)](#)** [PDF]

Examples

**[Comments from Public](#)**

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## 2. Continuation Practice

Federal Register - 71 *Fed. Reg.* 48 (03 January 2006)

Official Gazette

Topics: **[Proposed Changes to Practice for Continuing Applications, Requests for Continued Examination Practice, and Applications Containing Patentably Indistinct Claims, Notice of proposed rulemaking \(03Jan2006\)](#)** [PDF]

Examples

**[Comments from Public](#)**

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## Presentation Materials

In addition to the Chicago Town Hall slides described and available above, the following presentation materials are available:

**Slides** (25 January 2006 presentation by James Toupin regarding background and justification) ([html version](#)) ([zip version](#))

**Slides** (25 January 2006 presentation by Robert Spar regarding Claims Practice) ([html version](#)) ([zip version](#))

**Slides** (25 January 2006 presentation by Robert Spar regarding Continuation Practice) ([html version](#)) ([zip version](#))

**Slides** (29 March 2006 presentation by Robert Spar regarding Claims Practice and Continuation Practice) ([html version](#)) ([zip version](#))

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## Presentation Schedule

Additional Town Hall meetings sponsored by the USPTO. Check [www.uspto.gov](http://www.uspto.gov) for additional information or contact the Office of Public Affairs at 571-272-8400.

**02/28/2006 - Boalt Hall School of Law - Berkeley, CA**

**03/22/2006 - University of Houston Law Center - Houston, TX**

**04/25/2006 - USPTO - Alexandria, VA**

The following is a list of events that are *not* sponsored by the USPTO, but USPTO representatives will make (or have made) presentations. For more information on these events, please contact the sponsor unless otherwise identified below.

02/11/2006 - ABA Counsel - Chicago, IL

02/13/2006 - Orange County Bar Assoc. - Newport Beach, CA

02/14/2006 - Century City Bar Assoc. - Century City, CA

02/17/2006 - Duke Law School - Durham, NC

02/23/2006 - Franklin Pierce Law School - Concord, NH (contact: 603-228-1541 ext 1150)

02/28/2006 - Federal Circuit Bar Assoc. - Washington, DC

03/09/2006 - Biotechnology Industry Org. - San Francisco, CA (contact: [www.bio.org/ip/ipmeeting](http://www.bio.org/ip/ipmeeting))

03/20/2006 - State Bar of Michigan Intellectual Property Law Section - East Lansing, MI (contact: 877-229-4350)

03/29/2006 - Connecticut Intellectual Property Law Assoc. - New Haven, CT (contact: 860-286-2929)

04/05/2006 - Georgetown Law Center - Washington, DC

04/07/2006 - American Intellectual Property Law Assoc. - New York, NY (contact: [www.aipla.org](http://www.aipla.org))

04/12/2006 - Biotechnology Industry Org. - Chicago, IL (contact: [www.bio.org](http://www.bio.org))

04/19/2006 - Patent Lawyers Club of Washington - Rosslyn, VA (contact: 202-478-5300)

04/28/2006 - Tennessee Bar Assoc. Intellectual Property Forum - Nashville, TN (contact: [www.tba.org](http://www.tba.org))

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**NOTE:** The information contained on this page was correct at the time of original publication. Some information may no longer be applicable. Amendments may have been made to the rules of practice since the original date of a publication, there may have been a change in any fees indicated, and certain references to publications may no longer be valid. Wherever there is a reference to a statute or rule, please check carefully whether the statute or rule in force at the date of publication of the information has since been amended.

For questions concerning the proposals, please contact the Office of Patent Legal Administration at 571-272-7701 or [Patent.Practice@uspto.gov](mailto:Patent.Practice@uspto.gov).

Some contents linked to on this page require a plug-in for [ZIP](#) , [PDF](#) and [PowerPoint](#) Files.

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