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Sent: Wednesday, May 06, 2015 3:25 PM
To: WorldClassPatentQuality
Subject: Dell's Comments RE: Patent Quality Summit

Attached please find Dell Inc.'s response the PTO's request for written comments on enhancing patent quality. Thank for you for the opportunity to provide input.

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COMMENTS ON ENHANCING PATENT QUALITY

Dell Inc. (“Dell”) submits the following comment to the U.S. Patent & Trademark Office (“USPTO”) in response to its request for comments on enhancing patent quality.

I. INTRODUCTION

As one of the country’s leading innovators, Dell is a frequent customer of the USPTO. Dell recognizes that the value of its patents, like everyone else’s, depends on their validity. As a frequent target of patent infringement accusations, however, we are well aware that patents of poor quality also exist. Any action that strengthens the validity of an issued patent therefore both increases our commitment to research and development, and decreases the time and money that we spend addressing dubious accusations.

Dell supports the goal of improving quality in the USPTO, be that the quality of the examination process and/or the quality of issued United States patents. To that end, we comment on certain aspects of each of the three “patent quality pillars” proposed by the USPTO. Dell welcomes the opportunity to provide input and looks forward to continuing to work with the USPTO to address this critical issue as more specific ideas emerge.

II. PATENT QUALITY PILLARS

A. Pillar 1: Excellence in Work Products

The USPTO’s first pillar is excellence in work products, in the form of issued patents and Office actions. Dell wholeheartedly supports improvement in this area.

Dell particularly supports automated pre-examination searches. Businesses in every industry automate whenever an employee’s time is better spent on another task. The pre-examination search process, at least, seems to have reached this point. Assuming that the technology can deliver the necessary level of thoroughness, an Examiner can then spend that found time on the more complex tasks that follow. This efficiency offers a return to both applicants and the USPTO. Dell also agrees that enhancements to PLUS to permit natural language and semantic searches would be very useful.

We also favor transparency regarding the tools and methodology used in the pre-examination searches. Such transparency should allow patent applicants the option to reproduce the search results to the greatest extent possible.

B. Pillar 2: Excellence in Measuring Patent Quality

The USPTO's second pillar is excellence in measuring patent quality, including improving appropriate quality metrics. As a technology company, Dell knows that improving any product requires measuring the process that produces it. Thus we support expanding the metrics that the USPTO collects about its processes.

For example, it should not be difficult to determine the frequency that various rejections are invoked across art units. Such data would at a minimum inform both applicants and the USPTO. More importantly, this information should generate real feedback upon which the USPTO can act. It may well be that valid reasons exist for certain rejections to be invoked more frequently in certain technology areas. We would actually be surprised if there were uniformity across art areas. The end goal of any such metrics should not be to drive everyone toward a number, but rather to understand why any variations arise.

For similar reasons – to seek out the trends and not to target any particular Examiner – we suggest that the information collected should be anonymized so that it is not attributable to any particular Examiner.

C. Pillar 3: Excellence in Customer Service

The USPTO's third pillar is excellence in customer service. As Dell is frequently the "customer" in this equation, it should come as no surprise that we fully support this idea.

The establishment of satellite offices will help. Dell is excited about the opening of the Dallas satellite office, closest to our headquarters in central Texas. We expect this proximity to positively affect not only our ability to work with the USPTO, but to positively affect all of our fellow applicants who are situated closer to Dallas than to Alexandria. Similarly, we support the continued existence of Patent and Trademark Resource Centers at universities and libraries that generally are even closer to where applicants live. Simply put, satellite and regional offices make it easier for innovators to engage with the USPTO. We hope that the consequent engagement promotes a sense of cooperation and community that can only be good for everyone involved.

In particular, Dell supports anything that increases the opportunity for interviews with Examiners. Interviews facilitate the exchange of information between applicants and Examiners, in a way that written communication cannot hope to match. Dell's experience is that real time dialogue not only allows us the chance to make our points in a more conversational way, but allows us to better understand the Examiner's points.

The Dallas satellite office will allow Dell and others a greater opportunity to conduct video conferences with Examiners. We know that Dell benefits from this process, and we suspect that benefit flows in both directions. We are also excited to host Examiners at our facilities in Austin on an upcoming educational field trip, and we suspect that other applicants anticipate the same bilateral benefit.

CONCLUSION

Dell appreciates this opportunity to be heard on the issue of patent quality, but we know that the discussion does not end here. We therefore look forward to working with the USPTO as the quality initiative continues in the future.