

RICHARD B. BELZER

October 30, 2008

Mr. Nicholas A. Fraser
Desk Officer for the U.S. Patent and Trademark Office
Office of Information and Regulatory Affairs
Office of Management and Budget
Washington, DC 20503

RE: U.S. Patent and Trademark Office
Examination of Patent Applications That Include Claims Containing
Alternative Language, RIN 0651-AC00

Dear Mr. Fraser:

On October 16, 2008, I sent you a letter concerning this regulatory action seeking OMB intervention in defense of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and OMB's Information Collection Rule (5 C.F.R. Part 1320). I noted that the U.S. Patent and Trademark Office (PTO) had already violated the Paperwork Act, and was poised to do so again.

On October 24, 2008, PTO Deputy Commissioner for Patent Operations Margaret Focarino spoke at the American Intellectual Property Law Association (AIPLA) Annual Meeting in Washington, DC. According to a summary published by AIPLA, Focarino said PTO would not finalize this rule until after the next president is inaugurated. A copy of the AIPLA report is attached.

This gives OMB a unique opportunity to ratify an agency's own decision to refrain from promulgating a "midnight regulation," but also to advise senior PTO officials that they are required to comply with the PRA.

If OMB doesn't defend the Paperwork Reduction Act, who will?

Sincerely,



Enclosure: AIPLA Reports, October 27, 2008.

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