

From: Paul Overhauser <POverhauser@overhauser.com>
Sent: Thursday, October 27, 2011 1:28 PM
To: SMEpatenting
Subject: International Patent Protection for Small Businesses

I write in response to a notice in the October 7, 2011 Federal Register entitled "Request for Comments an Notice of Public Hearings on the Study of International Patent Protection for Small Businesses."

I have been a practicing patent attorney since 1983, and have obtained US and foreign patents for hundreds of businesses, mostly small businesses. I have also been actively involved in not-for-profit groups that focus on cultivating small businesses. I have also observed the effectiveness / ineffectiveness several government programs intended to assist in small businesses, primarily though grants or tax incentives.

My blog is at www.iniplaw.org

The Notice included several questions, my answer to which is below:

7. In order to help small businesses pay for the costs of filing, maintaining, and enforcing international patent applications, how effective would it be to establish a revolving fund loan program to make loans to small businesses to defray the costs of such applications, maintenance, and enforcement and related technical assistance?
- (a) Under what specific circumstances, if at all, would such a fund be effective at helping small businesses?
 - (b) If such a fund would be effective, should the fund be maintained by the Federal Government, and if so, through what mechanism?
 - (c) What criteria should be used to decide upon recipients of funding?
 - (d) Could the private sector be meaningfully involved in maintaining and implementing such a fund?
8. In order to help small businesses pay for the costs of filing, maintaining, and enforcing international patent applications, how effective would it be to establish a grant program to defray the costs of filing applications, paying maintenance fees, and conducting enforcement and to provide related technical assistance?
- (a) Under what circumstances, if at all, would such a program be effective at helping small businesses?
 - (b) If such a grant program would be effective, should the program be maintained by the Federal Government, and if so, through what mechanism?
What type of grant program, covering what specific costs, would be most effective?
 - (c) What criteria should be used to decide upon recipients of grants?


(d) Could the private sector be meaningfully involved in maintaining and implementing such a program?

9. If the Federal Government is limited to providing either (i) A revolving fund loan program or (ii) a grant program described above, but not both, which of these options would be more effective in accomplishing the outcome of helping small businesses pay for the costs of filing, maintaining, and enforcing international patent applications?

10. Are there circumstances under which the Federal Government should not consider establishing any of these programs?

I do not endorse a government loan program to help businesses get foreign patents. I oppose government loan programs generally, as I believe the private sector does a better job at evaluating the risks of a loan. Respectfully, the only businesses that would benefit from such a program would be those businesses for which the private marketplace believes a loan is not justified.

I have witnessed government programs that have given sizeable grants, investments, or tax breaks to new businesses based on technological innovations. In my experience, the government does a very poor job to assessing the prospects of a business. I have seen government fund many “off-the-wall” businesses that I would never invest my own money in. In short, government does a poor job of assessing risks in businesses as the recent Solyndra fiasco confirms. That last thing we need, at this time of budget constraints, is another government program that loses money for the taxpayers.

	Dedicated Responsive Effective Efficient
Paul Overhauser	Overhauser Law Offices, LLC 740 W. Green Meadows Dr., Ste 300 Greenfield, IN 46140 tel: 317 467-9100
poverhauser@overhauser.com	