

**From:** Lisa K  
**To:** [Fee.Setting](#)  
**Subject:** Fee Setting: Rescind the proposed CLE and bar dues for patent practitioners  
**Date:** Friday, September 7, 2018 7:49:37 PM

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Dear Sir or Madam:

I am a U.S. Registered Patent Attorney with over nineteen-years of experience in all aspects of patent prosecution and litigation, including two years working overseas. I oppose any implementation of continuing legal education (CLE) or bar dues for patent attorneys and agents. As a preliminary matter, the United States Patent and Trademark Office (USPTO) has failed to provide any support why the proposed fees are necessary. The USPTO has not established a long felt need to identify non-practicing patent practitioners or a training program for patent practitioners. They have not published any statistics that support significant harm done by non-practicing patent practitioners or established the number of non-practicing practitioners. Do they work in-house, private practice, or in solo practice? Are they lawyers? Are they foreigners? Are they retired engineers? Are they working in a specific technology?

In an interview with the PTO Director Iancu and OED Director Covey in IP Watchdog (<http://www.ipwatchdog.com/2018/09/04/andrei-iancu-oed-will-covey-practitioner-dues-cle-unauthorized-practice/id=100978/#comment-2766868>), Covey stated:

"Let me give you data on the unauthorized practice. *We really don't break the data down that way.* I looked at it, and approximately 20% of our current investigations involve (*sic*) unauthorized practice of law." (emphasis added)

How can a new mandatory fee be supported by such little data? Do your due diligence, Mr. Covey. Have your office perform research and publish reports on this issue. Then, the USPTO can start penalizing competent, authorized patent practitioners for the malfeasance of non-practicing practitioners and the USPTO Office of Enrollment and Discipline office.

I see the proposed fee as a penalty. If instituted, I will see nothing in return. The Patent Bar does not have an affiliated association with networking opportunities or educational programs, and will lack a physical building for conferences. The proposed bar fee is just a yearly withdrawal of \$ 240 to \$410 plus CLE fees that will not incentivize me to be a better patent lawyer.

I work as a Patent Attorney for a Federal government agency . My employer does not pay state bar dues for any of its 330 attorneys and certainly does not pay for CLE courses. Is the USPTO planning to exempt patent practitioners who are employed at the USPTO and other Federal agencies? Further, my state bar dues have consistently increased. When I was a solo practitioner, it became a burden to pay bar dues, CLE fees, and malpractice insurance when business was not always consistent. Another obligation to pay Patent Bar fees would require me to remember another date each year unless I want my bar license taken away.

In his interview with IP Watchdog, Mr. Covey admitted that other state bars of similar size (e.g., Massachusetts and Michigan) had 3-4x the number of disciplinary actions. Somehow, he justifies a new fee with his *ad hoc* case study despite the low number of cases of unauthorized patent practice. I believe it is ultimately up to the client to determine if they hired a *bona fide* patent attorney or agent. It would be a better

use of the USPTO's resources and my clients' statutory fees (which are U.S. taxpayers' money) to start a public campaign against this unauthorized practice than punishing the overwhelming, competent members of the patent bar. The USPTO should rescind their proposal for mandatory patent bar dues and CLE courses, especially because practitioners who are in solo practice, at non-profits, universities, or government agencies will be burdened to comply.

Sincerely,

**Lisa A. Kilday**  
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