

From: [Saffman, Emma](#)
To: [CIPO Consultations / OPIC consultations \(IC\)](#)
Subject: Submission of comments in response to proposed amendments to the Patent Rules (CGI)
Date: July 15, 2021 2:33:11 PM

Dear Sirs/Madams:

It is very unfair to introduce a fee for excess claims over 20 claims in view of the situation with respect to divisional applications and obviousness-type double patenting in Canada.

In the U.S., where excess claims fees are paid for more than 20 claims, applicants can freely file continuation applications to pursue more claims. If a double patenting objection is raised, this can be overcome by filing a Terminal Disclaimer.

However these options are not available in Canada. Applicants cannot file divisional applications unless they are directed to a separate inventive concept, and there is no Terminal Disclaimer practice. This means that applicants have no choice but to obtain all the claims related to an inventive concept in one application/patent.

Introducing a system of excess claims fees in Canada will not have the desired effect of reducing the number of claims per patent or increasing efficiency of examination. Instead it will (1) deprive applicants who cannot afford the fees of the ability to fully protect their inventions; and (2) for applicants who can afford the fees, simply amount to a fee grab for the patent office, without reducing the claim number.

I strongly oppose introducing claims fees unless divisional applications directed to the same invention are allowed and a cure for obviousness-type double patenting (such as a Terminal Disclaimer) is introduced.

Yours sincerely,

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