

CLIENT ALERT: TAFAS V. DOLL

Parties for both sides in the case of *Tafas v. Doll* plan to file a motion with the Court of Appeals for the Federal Circuit (the Court that hears all patent appeals) to dismiss litigation relating to proposed rules that would have placed significant restrictions on patent applicants.

In 2007, the U.S. Patent and Trademark Office (USPTO) sought to enact rules limiting the number of continuing applications and the number of claims in an application. The rules were challenged, principally by GlaxoSmithKline, on the grounds that the USPTO lacked authority to make such rules and that the rules were unduly restrictive and deprived inventors of protection necessary to promote innovation. The lower court agreed and enjoined enactment of the rules.

The Federal Circuit reversed the lower court in part, but then decided to vacate its decision and grant a rehearing en banc. Yesterday, the USPTO withdrew the 2007 regulations, and today both sides plan to file a motion to dismiss the litigation.

The decision by the USPTO to rescind the proposed rules indicates that the new administration is attempting to shift the patent application process to a more cooperative approach between patent applicants and examiners. And several additional proposals by the new administration indicate that the USPTO is interested in improving responsiveness and quality.



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