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# **Review of Proposed Strategies- Fee Strategies to Influence Behavior**

**FICPI/AIPLA Colloquium  
The Patent Offices Backlog Crisis  
17-18 June 2010  
Edinburgh, Scotland**

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**Lawrence T. Welch, Chair  
IPO Patent Law and Practice (International) Committee  
Assistant General Patent Counsel  
Eli Lilly and Company**



# Fee Strategies or Substantive Limits on Ability to Claim?

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- Users understand that offices need to charge applicants for the extra work engendered by excessive claims.
- Punitive fee schedules, or denials of the ability to claim subject matter are not favored by applicants, nor do they advance the goals of the patent system.
- Hard to comment without specific proposals.
- Some lessons from the USPTO proposed rules on continuations.

# IP Users Want To Contribute to the Solution

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- Applicants will generally support measures which fairly address the backlog problem, without denying options for IP protection, or causing applicants undue financial burden.
- For example, in several statements issued at the time of the USPTO proposed rules on continuations, IPO noted that it supported the hiring of new examiners, as well as some limits on the number of continuation applications for applicants.
- Survey data of IPO members showed that the proposed USPTO rules would cause “substantial burden on our members.” (*Letter, Executive Director Herbert Wamsley to USPTO Director Jon Dudas, September 27, 2007*)

# And, Applicants are willing to pay for the services they receive...

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IPO Board Resolution: **Adopted December 8, 2009**

## **[15% Surcharge on Patent User Fees] --**

*RESOLVED*, IPO supports a limited, up to 12-month, surcharge of up to 15 percent on USPTO patent user fees to support operations, hire additional examiners and address the quality of issued patents and application pendency, provided that fees collected by the USPTO are not diverted to unrelated government functions.

# Keys with any solutions

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- Are the fees commensurate with the costs of processing?
- Will applicants have the flexibility to adequately claim their inventions?
- Are there less burdensome means of solving the problem?