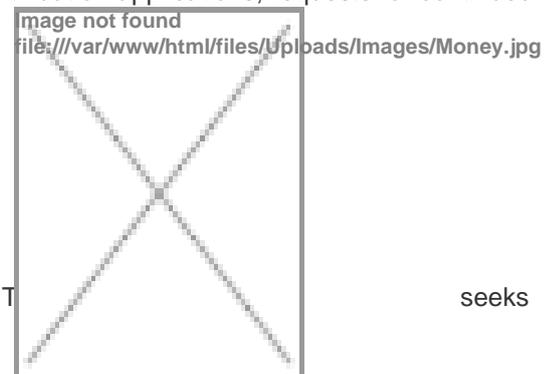




## Tafas Moves to Recover Attorneys' Fees, Claiming USPTO Unnecessarily Prolonged Litigation in *Tafas v. Dudas*

03.19.2010

Having recently [successfully opposed](#) proposed limits on patent continuation applications, requests for continued



examination, and claims-per-patent, inventor Triantafyllos T seeks

remuneration for what he alleges was an unnecessarily protracted battle with the USPTO.

Tafas [filed a motion](#) (and a [memo in support](#)) on March 15th in the Eastern District of Virginia seeking recovery of attorneys' fees and other expenses related to the earlier case. Tafas' claim is grounded in the [Equal Access to Justice Act](#), which permits recovery of such fees where a party has unreasonably, and in bad faith, delayed the outcome of litigation. In his motion, Tafas characterizes the USPTO's rules package as "transparently *ultra vires*" and asserts that its defense of the package was "not substantially justified" under the Act.

Specifically, Tafas suggests that the USPTO "knew or reasonably should have known by no later than January 2008" that it lacked the necessary approval from the Office of Management and Budget to move forward with the proposed rule changes. The agency nonetheless "vigorously litigated" the case, prolonging its resolution and causing Tafas to incur substantial legal fees.

Tafas further asserts that he is entitled to compensation at common law under the "common benefit" doctrine, as the outcome of his prior suit conferred a benefit on other inventors who otherwise would have been subject to the proposed limits.

Tafas claims that even the USPTO benefited from the prior suit insofar as it was spared the expense of "proceeding to implement the Final Rules only to have them subject to future challenge and invalidation."

A motion hearing has been set for March 26, 2010 before District Judge James C. Cacheris.

Ryan Davis of Law360 reported on Tafas' motion [here](#).

## Related People