

**From:** dana

**Sent:** Tuesday, February 12, 2013 12:49 PM

**To:** RCE outreach

**Subject:** RCE & IDS

One factor that plays a part, albeit usually a small part, in deciding to file a an RCE (as opposed to a CON or DIV) is IDS practice. In patents in the biotech area or patents with large families, there are often well over 100 cited references. The time to prepare an IDS and upload the references can take hours or even days. Although the AIA reduced the impact on the client (patent validity) for not citing a reference that should have been cited, the duty of disclosure is still the same and practitioners are still subject to charges of inequitable conduct or malpractice for failing to cite a reference (so we have to file it but the client won't pay for it). The USPTO could make our lives a lot easier by, for example, putting a check box on the ADS form that says "include references from parent case? yes/no." This might make a continuation application more appealing than an RCE.

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