

**UNITED STATES  
PATENT AND TRADEMARK OFFICE**

**uspto**

# Patent Public Advisory Committee Quarterly Meeting

## Review of Examiner Work Product

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# Agenda

- TC Review of Examiner Work Product
  - PAP Standard
  - Reviews Before Mailing
  - Reviews After Mailing
- OPQA Review of Examiner Work Product
  - Compliance Reviews
  - Review Process
  - Returns to the TC

# TC Reviews of Examiner Work Product

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# PAP Standard

- The examiner Performance Appraisal Plan (PAP) sets forth standards for examiner performance
  - Examiner responsibility varies based on GS level (e.g. Quality Major Activities Chart)
- Clear Error Definition

# PAP Quality Element

Table 2 Quality Major Activities	Activity Level	Error Category	Evaluation Level									
			GS 5	GS 7	GS 9	GS 11	GS 12	GS 13	GS 13/ 14 PSA	GS 14 FSA	GS 15	
1. checking applications for (a) compliance with formal requirements of patent statutes and rules and (b) technological accuracy	Basic	①	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
2. treating disclosure statements and claims of priority	Basic	①	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
3. analyzing disclosure and claims for compliance with 35 USC 112	Basic	②		✓	✓	✓	✓	✓	✓	✓	✓	✓
4. planning field of search	Basic	①		✓	✓	✓	✓	✓	✓	✓	✓	✓
5. conducting search	Basic	①	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
6. making proper rejections under 35 USC 102 and 103 with supporting rationale, or determining how claim(s) distinguish over the prior art	Basic	②		✓	✓	✓	✓	✓	✓	✓	✓	✓
16. properly treating all matters of substance in applicant's response	Legal	①							✓	✓	✓	
17. formulating and independently signing final determinations of patentability (final rejections, allowance, examiner answers and advisory actions)	Legal	*								✓	✓	
18. properly closing prosecution: makes no premature final rejection	Legal	②								✓	✓	
19. properly rejecting all rejectable claims in a final rejection; properly allowing all claims in an allowance	Legal	③								✓	✓	



# Reviews before Mailing

- Junior Examiner
  - All actions must be signed by a supervisor or a primary examiner authorized to sign off on work
- Primary Examiner
  - Sign most actions on their own

# Reviews after Mailing

- Quality Initiatives
- Quarterly PAP Rating Reviews
- Appeal/Pre-appeal Conferences
- Signatory Program



# OPQA Reviews of Examiner Work Product

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# Topics

- OPQA Random Compliance Reviews
- Review Process
- Returns to TC

# Random Compliance Reviews

- Sample is based on the volume of work completed by TC to achieve a statistically significant sample
- Allowances, Finals and Non-Finals
- Assigned to RQAS based on TC designation
- Approximately 4 hours/review

# Review Process

- Master Review Form
  - Rejections Made
  - Omitted Rejections
  - Other issues (i.e. search, restriction, objections)

# Review Process

Rejections made in Office action. Check all that apply.

- None
- 35 U.S.C. 102
- 35 U.S.C. 103
- 35 U.S.C. 112(a) – Written Description
- 35 U.S.C. 112(a) – Enablement
- 35 U.S.C. 112(b) – Vague and Indefinite Claim Language
- 35 U.S.C. 112(a)/(b) – 112(f) Related
- 35 U.S.C. 101 (Eligibility)
- 35 U.S.C. 101 (Utility)
- Double Patenting (Statutory)
- Double Patenting (Nonstatutory)
- Other Rejection(s)

Were there any omitted rejections? Check all that apply.

- None
- 35 U.S.C. 102
- 35 U.S.C. 103
- 35 U.S.C. 112(a) – Written Description
- 35 U.S.C. 112(a) – Enablement
- 35 U.S.C. 112(b) – Vague and Indefinite Claim Language
- 35 U.S.C. 112(a)/(b) – 112(f) Related
- 35 U.S.C. 101 (Eligibility)
- 35 U.S.C. 101 (Utility)
- Double Patenting (Statutory)
- Double Patenting (Nonstatutory)
- Other Omitted Rejection(s)

# Review Process

- Focused on the assigned action, but will review prosecution history as appropriate
- A Compliant Rejection will include:
  - Correct Claim(s)
  - Correct Statute
  - Sufficient Evidence
- All reviews include feedback
  - Positive reinforcement
  - Best practices/Areas for improvement
  - Issues for consideration

# Returns to TC

- All reviews are provided to the TC for appropriate action categorized as:
  - Noncompliant
  - For Consideration
  - Pass Through
  - Accolade

# Questions and Comments

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