

Patent Public Advisory Committee Meeting

RCE Outreach Progress Update



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Patent Operations
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Data Collection & Review

- Over 1100 comments and suggestions from all of the RCE Outreach sources including, IdeaScale[®], comments from the FR notice, and the five Roundtables/Focus sessions were collected
- When these were categorized several high-level themes emerged
- TC Directors formed various teams to address the themes



High-Level Theme 1 for Reducing Need for Future RCE Filings

Educational Outreach

- The Office should provide sustained emphasis on available programs and options
- There is a general lack of awareness and understanding of existing initiatives and how they work



Educational Outreach Potential Approach

- Provide training for both external customers as well as examining corps on programs and initiatives
 - Website development nearing completion. Site will serve as a central information hub
 - Matrix and timeline format (demonstration)
 - training modules/workshops based on the site for both external customers and examining corps
- Sustained awareness of all available options may obviate the need to file some RCEs
- Website Demo



High-Level Theme 2 for Reducing Need for Future RCE Filings

IDS Consideration

- IDS consideration after allowance drives the filing of a significant number of RCEs
- The QPIDS program addresses this issue for references from a foreign filing
- Currently there is no relief for references from a domestic filing



IDS Consideration Potential Approach

- Possible expansion of the QPIDS program to allow for certification under 37 CFR 1.97(e) for information from a domestic filing
- Develop an automation tool to allow for earlier identification of IDSes in related applications
 - Easier and earlier identification will assist both external customers and examining corps
 - Some RCEs will be avoided because IDSes may be filed earlier in prosecution



High-Level Theme 3 for Reducing Need for Future RCE Filings

Training

- General comments on examination quality and supervisory involvement
 - comments usually described specific instances
 - desire for increased consistency



Training Potential Approach

- Advanced training for supervisors and examiners
 - After final practice/compact prosecution
 - How to effectively review a case
 - How to better identify and relate allowable subject matter
- Claim construction training
 - Broadest Reasonable Interpretation-what “R” means
- Continuing one-on-one training for examiners with a high number of RCEs



High-Level Theme 4 for Reducing Need for Future RCE Filings

Prosecution Flexibility

- In some instances, there is not enough time to clarify issues before final status is reached
- More opportunities to interact and communicate with the examiner earlier in prosecution would allow for better synchronization between attorney and examiner
- An option to receive a PCT-style search report before first action would help determine claim set for examination



Questions and Comments?

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Initiatives & Events

- [Patents End-to-End](#)
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- [Patent Cooperation Treaty](#)
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Patent Application Examination Initiatives

The USPTO makes available several patent application programs and initiatives designed to advance the examination process and to assist applicants or their representatives with issues that arise during patent application prosecution. Applicants can selectively participate in one or more patent application programs prior to examination, during examination, or after close of prosecution. For comparison purposes, detailed information on each patent program can be viewed in both an interactive matrix and timeline format provided below.



See a [Timeline](#) of when to use the various Initiatives throughout the application process.



See a detailed [Matrix](#) of the details of the initiatives and how you can use them during the application process to expedite your application examination:

- [Prior to Examination](#)
- [During Examination](#)
- [After Close of Prosecution](#)

Examination Initiatives

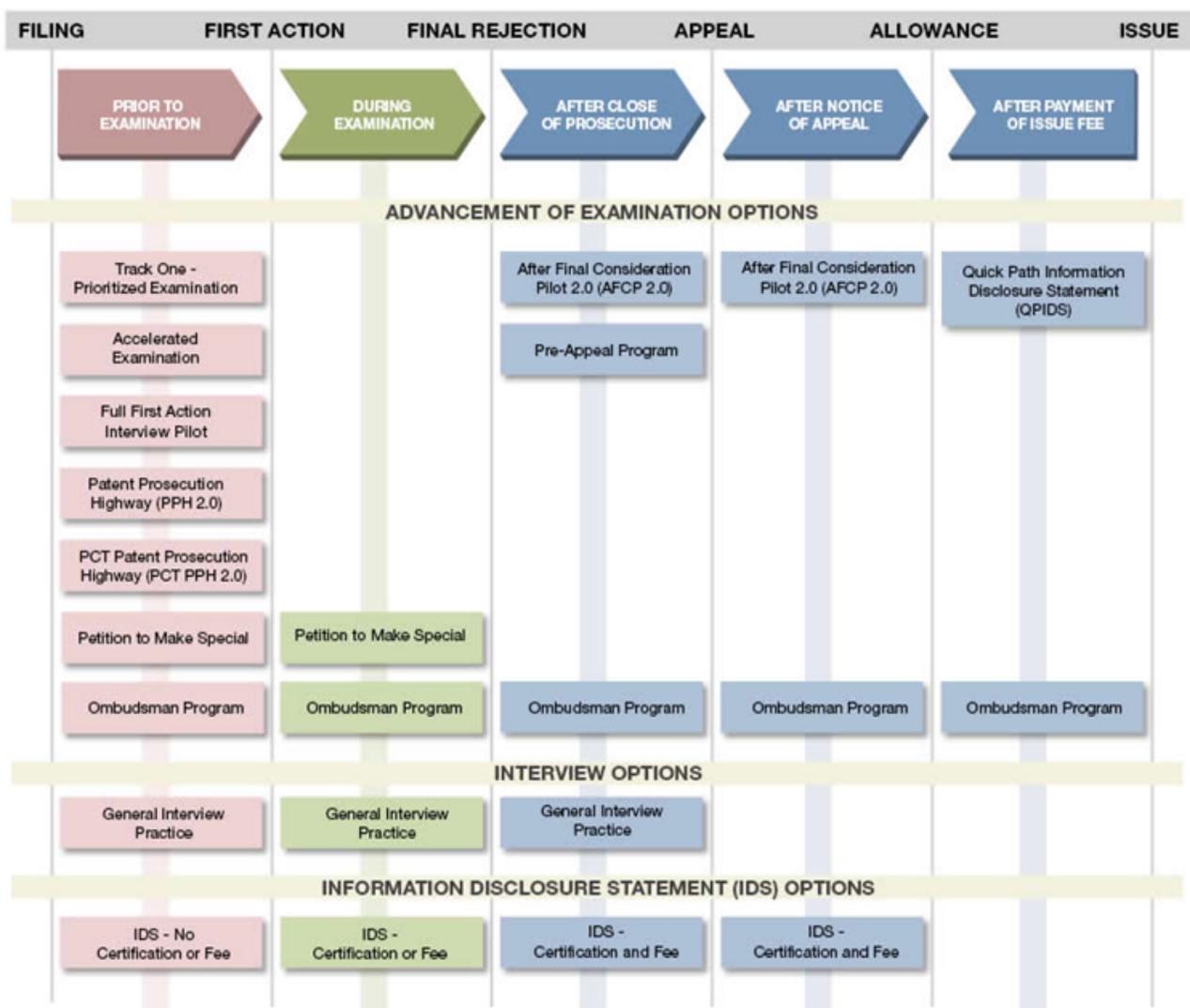
- [After Final Consideration Pilot 2.0 \(AFCP 2.0\)](#)
- [Quick Path Information Disclosure Statement \(QPIDS\) Pilot Program](#)
- [First-Action Interview Pilot Program](#)
- [Full First Action Interview Pilot Program](#)
- [Leahy-Smith America Invents Act Implementation](#)
- [Prioritized Examination](#) - Track One and Prioritized Examination for RCEs
- [Accelerated Examination](#)



USPTO Patent Application Examination Initiatives Timeline

The USPTO Patent Application Examination Initiatives Timeline displays the various patent examination support programs and initiatives that are available to applicants during each phase of the patent examination prosecution process. Applicants can elect to participate from one or more programs prior to examination, during examination, or after close of prosecution. Each program is designed to advance the progress of a filed patent application throughout the examination process, and to provide applicant assistance to ensure program guidelines are properly executed. A detailed [Matrix of the initiatives](#) is also available to show how you can use them during the application process.

For more information on each patent application examination initiative, click on a selected program title in the Timeline to access specific details on objectives and participation requirements.



USPTO Patent Application Examination Initiatives - Prior to Examination

Prior To Examination

[View the Patent Application Examination Initiatives Timeline](#)

During Examination »

	Track One (Prioritized Examination)	Accelerated Examination	Full First Action Interview Pilot	Patent Prosecution Highway (PPH 2.0)	PCT Patent Prosecution Highway (PCT PPH 2.0)	Ombudsman Program
Description	The goal is to provide a final disposition within twelve months, on average, of prioritized status being granted. Statistics: http://www.uspto.gov/patents/init_events/Track_One.isp	Accelerated examination provides applicant the opportunity to have final disposition of an application in 12 months. Statistics: http://www.uspto.gov/patents/process/file/accelerated/ae_petition_status_2012apr09.pdf	Under this Program, an applicant is entitled to a first action interview, upon request, prior to the first Office action on the merits.	An applicant receiving a ruling from the Office of First Filing (OFF) that at least one claim in an application filed in the OFF is patentable may request that the Office of Second Filing (OSF). Statistics: http://www.uspto.gov/patents/init_events/pph/pphbrochure.pdf	European Patent Office (EPO) or the USPTO may request that the other office fast track the examination of corresponding claims in corresponding applications.	The Patents Ombudsman Program enhances the USPTO's ability to assist applicants or their representatives with issues that arise during patent application prosecution.
Program Start Date	09/2011 (AIA)	08/2006	10/2009	2006	01/2010	04/2010
Currently Active (accepting applications)	Yes	Yes	Yes, extended beyond 11/16/12	Yes	Yes	Yes
Petition / Request	Request	Petition	Request	Petition	Request	Request
Surcharge /Fee	Yes - \$4800 / \$2400 small entity; \$4000/ \$2000 as of 3/19/13	Yes - \$130 ***	No	No	No	No
Claim number limit (s)	Yes - 4 Indep., no more than 30 claims	Yes-3 Indep., no more than 20 claims	Yes- 3 Indep., no more than 20 claims	No – may file 3 Indep. & no more than 20 claims; or pay excess claim fees for any additional claims	No	N/A
Shortened Prosecution Time	Yes – goal is an average of 12 months to final disposition	Yes – goal is 12 months to final disposition. Non-extendable 1 month response time until final rejection or allowance.	Yes – due to shortened response period(s)	Yes – due to earlier FAOM	Will leverage fast-track patent examination procedures already available in both offices.	N/A
Special Status	1st Action	Until final disposition	No	Until final disposition	Yes	N/A
Examination support document	No	Yes	No	No	No	N/A
Shortened / Non extendable Response Times	Yes **	Yes	Yes	No	No	N/A
Interview Required	No	Yes	Yes	No	No	N/A
Continuation Applications & RCEs eligible for program	Yes	Yes (only at the time of filing)	Yes (only CONs & DIVS before FOAM, not RCEs)	Yes (only CONs & DIVS before FOAM, not RCEs)	N/A	Yes
Duration or application limit	10,000 per year	Unlimited, no expiration	Unlimited, Extended beyond 11/16/12	Unlimited, no expiration	Expires 01/28/14	Unlimited, no expiration
Status of Program	Pilot	Permanent	Pilot	Permanent	Pilot	Permanent

* if claims are in condition for allowance no interview is required.

** if extension of time is filed, application is out of Track One

*** no fee if statement of claimed subject matter is directed to environmental quality, energy, or countering terrorism.



USPTO Patent Application Examination Initiatives - During Examination

During Examination

[View the Patent Application Examination Initiatives Timeline](#)

« Prior to Examination

After Close of Prosecution »

	Petition to Make Special	General Interview Practice	Ombudsman Program
Description	Applications will not be advanced out of turn for examination or for further action except as provided by this part.	The USPTO encourages examiners to take a proactive approach to examination by reaching out and engaging our stakeholders in an effort to resolve issues and shorten prosecution.	The Patents Ombudsman Program enhances the USPTO's ability to assist applicants or their representatives with issues that arise during patent application prosecution.
Program Start Date	Circa 12/1959		04/2010
Currently Active (accepting applications)	Yes	Yes	Yes
Petition / Request	Petition	Request	Request
Surcharge / Fee	No	No	No
Claim number limit(s)	Yes – 4 Indep. claims, no more than 30 claims	N/A	N/A
Shortened Prosecution Time	Yes – due to earlier FAOM and placement on special amended docket	N/A	N/A
Special Status	Until final disposition	N/A	N/A
Examination Support Document	No	N/A	N/A
Shortened / Non extendable Response Times	No	N/A	N/A
Interview Required	No	Yes	N/A
Continuation Applications & RCEs eligible for program	Yes	Yes	Yes
Duration or application limit	Unlimited, no expiration	No	Unlimited, no expiration
Status of Program	Permanent	Permanent	Permanent



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USPTO Patent Application Examination Initiatives - After Close of Prosecution

After Close of Prosecution

[View the Patent Application Examination Initiatives Timeline](#)

« During Examination

	After Final Consideration Pilot 2.0 (AFCP 2.0)	Pre-Appeal Program	General Interview Practice	Quick Path Information Disclosure Statement (QPIDS)	Ombudsman Program
Description	Like AFCP, AFCP 2.0 authorizes additional time for examiners to search and/or consider responses after final rejection.	An avenue to request that a panel of examiners formally review the legal and factual basis of the rejections in their application prior to the filing of an appeal brief.	The USPTO encourages examiners to take a proactive approach to examination by reaching out and engaging our stakeholders in an effort to resolve issues and shorten prosecution.	The Quick Path Information Disclosure Statement (QPIDS) pilot program is part of the USPTO's on-going efforts towards compact prosecution and pendency reduction.	The Patents Ombudsman Program enhances the USPTO's ability to assist applicants or their representatives with issues that arise during patent application prosecution.
Program Start Date	05/2013	07/2005		05/2012	04/2010
Currently Active (accepting applications)	Yes	Yes	Yes	Yes	Yes
Petition / Request	Request	Request	Request	Submitted Via EFS-Web as e-petition	Request
Surcharge / Fee	No	Notice of Appeal Fee	No	Yes - IDS fee \$180	No
Claim number limit(s)	No	No	N/A	No	N/A
Shortened Prosecution Time	N/A	N/A	N/A	N/A	N/A
Special Status	N/A	No	N/A	N/A	N/A
Examination Support Document	No	No	N/A	No	N/A
Shortened / Non extendable Response Times	No	No	N/A	No	N/A
Interview Required	No	No	Yes	No	N/A
Continuation Applications & RCEs eligible for program	N/A	Yes	Yes	N/A	Yes
Duration or application limit	Expires 9/30/13	Unlimited, no expiration	No	Extended Quarterly, exp. 9/30/13	Unlimited, no expiration
Status of Program	Pilot	Pilot	Permanent	Pilot	Permanent



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