



Patent Public Advisory Committee

Peer Reviewed Prior Art Pilot

April 29, 2010



Background

- The Open Source Community along with NYLS approached USPTO in 2005 with Peer Review concept
- USPTO in cooperation with NYLS launched peertopatent.org website in June 2007
- One year pilot in the computer hardware and software technologies was extended for a second year to include Business Method applications
- Funding for pilot came from donations from major corporations as well as non-profit organizations



Results

- Of the 428 consents filed, 226 applications were originally eligible and were posted on the website, 189 were ultimately examined (37 applications did not receive a prior art submission)
- 603 pieces of prior art were posted to the website over half of which was NPL
- Average of just over 3 pieces of prior art per application were submitted by peers
- In 15 applications, the examiners changed their rejection from art that they had found to art that was found and submitted by the peer reviewers – 7.9%
- In 15 other applications, the examiners used prior art submitted by peer reviewers that examiners had also found – 7.9%



Results (continued)

- In total, 30 applications of the 189 contained a rejection using prior art submitted by the peer reviewers – 15.9%
- Participation in the pilot clearly depended on significant publicity by USPTO (USPTO mailed 33,000 letters which elicited over 100 eligible applications) as well as from NYLS
- Surveyed participating examiners as to their experiences
- Survey of external stakeholders (practitioners, patent applicants and patent peer reviewers)



Other Considerations

- USPTO gained considerable positive media attention – (Washington Post)
- White House.gov highlighted the pilot on the Open Government Initiative website
- Foreign offices have followed USPTO lead:
 - JPO now in contract negotiations after running their own version;
 - IP Australia currently running a pilot and;
 - UK Patent Office intended to run pilot but had financial issues
- Pending legislation S 515 encourages submission of prior art with annotation



For question or comments:

Jack Harvey

Group Director, Technology Center 2400

Jack.harvey@uspto.gov

571-272-4056