Status Report: USPTO Implementation of the America Invents Act
Prioritized Examination: Implemented

- 1,694 petitions filed
  - 40.8 days on average from filing to petition decision
  - 98.9% grant rate

- 648 prioritized applications received a first Office action
  - 30.7 days on average from grant of petition to first Office action

- 23 Notices of Allowance and 3 Final Rejections issued
  - 39.2 days on average from grant of petition to Notice of Allowance
  - 34.3 days to final rejection

- 1st patent issued on January 10, 2012 from a September 30, 2011 prioritized examination filing
## Proposed Rules in Progress

### NPRMs Published Ahead of Schedule

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### NPRMs Awaiting OMB Clearance*

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* USPTO submitted the proposed rules to OMB on schedule in mid-December 2011 and is expecting OMB clearance by January 18, 2012, per an USPTO-OMB agreement for a 30-day review.
AIA Roadshows on Proposed Rules

- **February 24**: Sunnyvale Public Library, Sunnyvale, CA
- **February 27**: Marriott Library, University of Utah, Salt Lake City, UT
- **February 29**: Dallas Public Library, Dallas, TX
- **March 2**: Broward County Main Library, Ft. Lauderdale, FL
- **March 5**: Boston Public Library, Boston, MA
- **March 7**: Chicago Public Library, Chicago, IL
Fee Setting Implementation

• Fee Setting Authority
  – Authority to set or adjust fees became effective on September 16, 2011
  – Authority to be exercised by rulemaking under 17 month timeline
  – Step 1 of rulemaking involves PPAC fee setting hearings
    • February 15, 2012 @ USPTO
    • February 23, 2012 @ Sunnyvale, CA
Int’l Patent Protection for Small Businesses Study

• USPTO studied how the USPTO and other federal agencies can best financially help small businesses with patent protection overseas

• USPTO consulted with the Department of Commerce and the Small Business Administration

• Report (33 pages) timely submitted to Congress on January 13, 2012
Recommendations

• Engage in diplomacy and harmonization to reduce the costs associated with filing foreign patent applications (e.g., via small entity discounts);

• Expand IP education and training for U.S. small businesses;

• Engage industry regarding how to best support U.S. small business efforts to patent internationally (e.g., corporate venture capital); and

• Collect more information and conduct further study regarding governmental financial assistance to U.S. small businesses (e.g., loan versus grant)
Prior User Rights Study

• USPTO studied the operation of prior user rights (PUR) in other industrialized countries

• USPTO consulted with the United States Trade Representative, Secretary of State, and Attorney General

• Report (60-pages) timely submitted to Congress on January 13, 2012
• PUR defense in the AIA is consistent with that offered by major trading partners;

• No substantial evidence that PUR defense in the AIA will have a negative impact on innovation, venture funding, small businesses, universities, or independent inventors;

• U.S. should re-evaluate economic impact of PUR defense in “Implementation of AIA” report due to Congress in 2015;

• PUR defense is appropriate balance between trade secret protection and patent law; and

• U.S. patent law should provide for a PUR defense to address inequity inherent in a first-inventor-to-file system
Genetic Testing Study

• USPTO to report on effective ways to provide independent, confirming genetic diagnostic tests where:
  – gene patents; and
  – exclusive licensing for primary genetic diagnostic tests

• Federal Register RFI to issue next week
  – Hearings:
    • February 16, 2012 @ USPTO
    • March 9, 2012 @ University of San Diego School of Law
  – Written comments: late January to late March

• Report due by June 16, 2012
Satellite Offices

- USPTO required to open 3 satellite offices in three years
- Initial office planned for Detroit; location secured and opening in Summer 2012
- Request for Comments on Additional USPTO Satellite Offices for the Nationwide Workforce Program, 76 Fed. Reg, 73601 (Nov. 29, 2011)
  - Written comments due by January 30, 2012
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* Additional expected
Thank You