EXAMINATION TIME ANALYSIS: WHY?

We will establish the optimal pendency and quality levels for both patents and trademarks that will enable us to operate efficiently and effectively in a steady-state maintenance mode, while considering the expectations of the IP community. –USPTO Strategic Plan 2014-2018
EXAMINATION TIME ANALYSIS: Why now?

• Properly calibrated examination time is critical for establishing optimal pendency and quality levels.
• Patent prosecution has substantially changed since goals were established. For example:
  – New technologies and increased technological complexity
  – Exponential growth of available prior art
  – Transition to the Cooperative Patent Classification (CPC)
  – Increased use of Electronic tools
  – Changes in policy and legal interpretations
EXAMINATION TIME ANALYSIS: Why now?

• There has not been a comprehensive reevaluation of examination time since the current examination time expectancies were established in the 1970s.

• Recent reports by oversight bodies such as the General Accounting Office and Office of the Inspector General have recommended that the USPTO reevaluate examination time.
Major items affecting Examination Time

- Differing Technologies
- Using data to analyze time
- Quality Enhancements/Expectations

Technology/Data
- Organizing like technologies together based on CPC
- Determine examining hours based on technology data and application characteristics

Stakeholder Outreach
- Obtain and analyze input from external stakeholders
- Obtain and analyze input from internal stakeholders

Quality and Clarity Actions
- Determine expectations based on outreach data and internal quality programs/data

Implementation
**Internal Outreach – Examiner & SPE Surveys**

• All Patent Examiners and SPEs had the opportunity to participate in a comprehensive survey to provide ideas, experiences, and priorities concerning productivity and the production system.
  – Examiner Participation
    • Total Respondents: 6,912 (83% of Corp)
    • General Comments: 897
  – SPE Participation
    • Total Respondents: 425 (68% of Corp)
    • General Comments: 218
External Outreach

• Federal Register Notice published October 25th to public solicit feedback and announce roundtables.
  – 4 roundtables held in were held in Alexandria and the USPTO Regional offices in Dallas, Denver, and San Jose.
    • Approx. 90 attendees
  – Website: https://www.uspto.gov/patent/initiatives/eta-external-outreach
  – Written comments:
    • 36 emailed (27 individuals, 6 companies, 3 IP Organizations)
    • 6 comments on IdeaScale
Next Steps

• Analyze the results of both external and internal stakeholder outreach.
• Continue to evaluate additional factors impacting examination time such as:
  – Application data and prior art searching by technology
  – Recently established quality initiatives
  – Grouping of like technologies leveraging CPC
Next Steps

• Recommend changes to current examination time and negotiate these changes with the labor union.
  – Additionally, the effort will seek to develop an agile process that will allow the UPSTO to revisit and revise examination time on a more frequent basis in order to readily adapt to any future changes.
Questions and Comments

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