FY21 quality statistics & FY22 predictions

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Director, Office of Patent Quality Assurance
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Patent Public Advisory Committee quarterly meeting
Statutory compliance measures

• OPQA reviews a representative sample of Office actions under the statutory compliance standard

• Focus on determining if appropriate and clear determinations were made for every pending claim based on the four patentability statutes (35 USC § 102, 103, 112, 101)
  – For rejected claims, the Office action must be correct and (1) clearly identify the claim and relevant statute; and (2) set forth sufficient evidence to put a person skilled in the art on notice as to why the claim is considered unpatentable so as to provide applicant with a fair opportunity to respond
  – For an allowed claim, the Office action must not omit a statutorily compliant rejection
# Statutory compliance data (FY 2021)

<table>
<thead>
<tr>
<th>Statute</th>
<th>Prevalence in Office Actions</th>
<th>FY 21 Compliance Goals</th>
<th>FY 20 Overall Compliance – All Claims</th>
<th>FY 21 Overall Compliance – All Claims</th>
<th>FY21 Improvement</th>
<th>FY 21 Overall Compliance – Independent Claims</th>
</tr>
</thead>
<tbody>
<tr>
<td>101</td>
<td>7%</td>
<td>≥97%</td>
<td>97.7%</td>
<td>98.3%</td>
<td>+0.6%</td>
<td>98.5%</td>
</tr>
<tr>
<td>102</td>
<td>35%</td>
<td>≥95%</td>
<td>94.3%</td>
<td>95.0%</td>
<td>+0.7%</td>
<td>96.5%</td>
</tr>
<tr>
<td>103</td>
<td>77%</td>
<td>≥93%</td>
<td>88.9%</td>
<td>90.6%</td>
<td>+1.7%</td>
<td>94.6%</td>
</tr>
</tbody>
</table>
| 112     | 112(a) Enablement: 5%  
112(a) Written Description: 8%  
112(b): 31% | ≥93%                   | 90.6%                                | 92.2%                                | +1.6%           | 96.1%                                       |

*Confidence interval for overall compliance: ± 0.5%
Characteristics in 103 Rejections

[Bar chart showing the characteristics of 103 rejections for ACCOLADE, ALL PASS THROUGHS, and NONCOMPLIANT categories.]

- INDIVIDUAL CLAIMS
- PINPOINT LIMITATION
- ANNOTATED FIGURES
- EXPLAIN DETAIL
- RATIONALE FOR EACH MODIFICATION
- PATENT WEIGHT
- CLAIM INTERPRET
- 112(f) EXPLAIN SAME/EQUIV STRUCTURE
- LEGAL ANALYSIS
- TECH ANALYSIS
- SUGGESTIONS
- NONE
Accolades

- Accolade comments are used to recognize work that goes beyond the requirements in the MPEP
- Can be included in any Office Action Characteristics section of the MRF

<table>
<thead>
<tr>
<th>All Accolades Identified – All Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Reviews</td>
</tr>
<tr>
<td>12036</td>
</tr>
</tbody>
</table>
Look ahead for FY 2022

• Continued focus on improving statutory compliance
  – Focus on 35 USC 103 and 35 USC 112

• Maintain high stakeholder satisfaction
  – Most recent external survey revealed customer perception of USPTO overall quality at all time high

• Technology Center impact plans
  – Targeted quality improvement efforts developed within each technology center
Thank you!

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