

High Level Overview of the Examiner Decision Making Process

Decision Point: First Examination

During first examination:

- An examiner with signatory authority decides to reject or allow claims.
- An examiner without signatory authority prepares an Office action in which claims are rejected or allowed, and an examiner with signatory authority or SPE reviews, approves, and signs Office action.

Decision Point: Subsequent Examination

If a compliant response is filed, then:

- An examiner with signatory authority decides to reject or allow claims.
- An examiner without signatory authority prepares an Office action in which claims are rejected or allowed, and an examiner with signatory authority or SPE reviews, approves, and signs Office action.

Decision Point: Appeals Process

If claims have been twice rejected, Applicant may appeal decision to PTAB by filing a notice of appeal and an appeal brief.

An appeal conference is held with the examiner, SPE, and an additional conferee having sufficient experience to be of assistance in the consideration of the merits of the issues on appeal. The Office makes a decision to re-open prosecution, allow claims, or proceed with the appeal. If a decision is made by the Office to proceed with the appeal, the examiner prepares an examiner's answer.