Patent Quality Chat
How Is An Examiner’s Work Product Reviewed?

November 14, 2017
To send in questions or comments during the webinar, please email:

PatentQuality@uspto.gov
http://www.uspto.gov/patentquality

Patent Quality

Providing high-quality, efficient examination of patent applications is paramount to our mission at USPTO. To ensure we continue to issue high-quality patents that will fuel innovation well into the future, the Office of the Deputy Commissioner for Patent Quality, along with our partners across the Patents organization, promotes and supports the continuous improvement of patent products, processes and services through collaboration with internal and external stakeholders of the intellectual property community.

Highlights

Patent Quality Chat
Tune into our next webinar on Tuesday, November 14, from noon - 1:00 p.m. ET, when we will be discussing "How is an Examiner's Work Product Reviewed?"

Quality Metrics
See our new metrics approach, categorizing into product, process and perception indicators.

Stakeholder Training on Examination Practice and Procedure (STEPP)
Sign up for an upcoming training developed for those interested in a better understanding of the examination process at the USPTO.

Areas of Focus
Collaboration with our stakeholders has directed our focus within three areas, where we can best improve patent quality.

Email questions to PatentQuality@uspto.gov
### 2017 Chat Series

<table>
<thead>
<tr>
<th>Date</th>
<th>Topic</th>
<th>Speaker</th>
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<tr>
<td>Tuesday, November 14</td>
<td>How is an Examiner’s Work Product Reviewed?</td>
<td>Sandria Spyrou, Supervisor, Office of Patent Quality Assurance</td>
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<tr>
<td>Noon - 1 p.m. ET</td>
<td>• Presentation Slides (coming soon)</td>
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<td>• Video (coming soon)</td>
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<tr>
<td>Thursday, October 12</td>
<td>Examiners Provide Their View on Prepared Applications.</td>
<td>Jim Dwyer, Director, Office of Patent Quality Assurance</td>
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<td>11 a.m.-noon ET</td>
<td>• Presentation Slides</td>
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<td>• Video</td>
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<tr>
<td>Tuesday, September 12</td>
<td>How Can the Patents Ombudsman and Pro Se Assistance Programs Work For You?</td>
<td>Mindy Bickel, Associate Commissioner for Innovation Development</td>
</tr>
<tr>
<td>Noon-1 p.m. ET</td>
<td>• Presentation Slides</td>
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Patent Quality Chat
How Is An Examiner’s Work Product Reviewed?

Sandie Spyrou
Supervisor, Office of Patent Quality Assurance

Christyann Pulliam
Supervisor, Technology Center 2100
Topics

• Examiner Work Product = Office actions
  – Typically Reviewed are Non-Finals, Finals, and Allowances

• Technology Center (TC) Review of Examiner Work Product
  – Performance Appraisal Plan (PAP) Standard
  – Reviews Before Mailing
  – Reviews After Mailing

  – Compliance Reviews
  – Review Process
  – Returns to the TC

Email questions to PatentQuality@uspto.gov
TC Reviews of Examiner Work Product

Email questions to PatentQuality@uspto.gov
PAP Standard

• What an Examiner is responsible for varies based on GS level (GS = government scale or pay grade)
  – Examiner’s PAP sets forth standard for performance
  – Degree of responsibility is based on the Examiner’s GS level which is correlated in a Major Activities Chart
  – Clear Error Definition

Email questions to PatentQuality@uspto.gov
# PAP Quality Element

## Table 2

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<tr>
<th>Quality Major Activities</th>
<th>Activity Level</th>
<th>Error Category</th>
<th>GS 5</th>
<th>GS 7</th>
<th>GS 9</th>
<th>GS 11</th>
<th>GS 12</th>
<th>GS 13</th>
<th>GS 13/14 PSA</th>
<th>GS 14 PSA</th>
<th>GS 15</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. checking applications for (a) compliance with formal requirements of patent statutes and rules and (b) technological accuracy</td>
<td>Basic</td>
<td>1</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>2. treating disclosure statements and claims of priority</td>
<td>Basic</td>
<td>1</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>3. analyzing disclosure and claims for compliance with 35 USC 112</td>
<td>Basic</td>
<td>2</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>4. planning field of search</td>
<td>Basic</td>
<td>1</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>5. conducting search</td>
<td>Basic</td>
<td>1</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>6. making proper rejections under 35 USC 102 and 103 with supporting rationale, or determining how claim(s) distinguish over the prior art</td>
<td>Basic</td>
<td>2</td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<td>✔</td>
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<tr>
<td>16. properly treating all matters of substance in applicant’s response</td>
<td>Legal</td>
<td>1</td>
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<td></td>
<td></td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
</tr>
<tr>
<td>17. formulating and independently signing final determinations of patentability (final rejections, allowance, examiner answers and advisory actions)</td>
<td>Legal</td>
<td>*</td>
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<td>✔</td>
<td>✔</td>
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<tr>
<td>18. properly closing prosecution: makes no premature final rejection</td>
<td>Legal</td>
<td>2</td>
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<td></td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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<tr>
<td>19. properly rejecting all rejectable claims in a final rejection, properly allowing all claims in an allowance</td>
<td>Legal</td>
<td>3</td>
<td></td>
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<td></td>
<td></td>
<td>✔</td>
<td>✔</td>
<td>✔</td>
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Email questions to PatentQuality@uspto.gov
Reviews before Mailing

• Junior Examiner
  – All actions must be signed by a Supervisor or a Primary Examiner authorized to sign others’ work

• Primary Examiner
  – Signs most actions on their own

Email questions to PatentQuality@uspto.gov
Reviews after Mailing

- Quality Initiatives
- Quarterly PAP Rating Reviews
- Appeal/Pre-appeal Conferences
- Signatory Program

Email questions to PatentQuality@uspto.gov
OPQA Reviews of Examiner Work Product

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Topics

• OPQA Random Compliance Reviews
• Review Process
• Returns to TC
Random Compliance Reviews

• Sample is based on the volume of work completed by TC to achieve a statistically significant sample
• Allowances, Finals and Non-Finals
• Assigned to RQAS (Reviewing Quality Assurance Specialist) based on TC designation
• Approximately 4 hours/review

Email questions to PatentQuality@uspto.gov
Tool for Reviewing

• Master Review Form (MRF)
  – Rejections Made
  – Omitted Rejections
  – Other issues (i.e. search, restriction, objections)

Email questions to PatentQuality@uspto.gov
Master Review Form Sections

Rejections made in Office action. Check all that apply.

☐ None
☐ 35 U.S.C. 102
☐ 35 U.S.C. 103
☐ 35 U.S.C. 112(a) — Written Description
☐ 35 U.S.C. 112(a) — Enablement
☐ 35 U.S.C. 112(b) — Vague and Indefinite Claim Language
☐ 35 U.S.C. 112(a)/(b) — 112(f) Related
☐ 35 U.S.C. 101 (Eligibility)
☐ 35 U.S.C. 101 (Utility)
☐ Double Patenting (Statutory)
☐ Double Patenting (Nonstatutory)
☐ Other Rejection(s)

Were there any omitted rejections? Check all that apply.

☐ None
☐ 35 U.S.C. 102
☐ 35 U.S.C. 103
☐ 35 U.S.C. 112(a) — Written Description
☐ 35 U.S.C. 112(a) — Enablement
☐ 35 U.S.C. 112(b) — Vague and Indefinite Claim Language
☐ 35 U.S.C. 112(a)/(b) — 112(f) Related
☐ 35 U.S.C. 101 (Eligibility)
☐ 35 U.S.C. 101 (Utility)
☐ Double Patenting (Statutory)
☐ Double Patenting (Nonstatutory)
☐ Other Omitted Rejection(s)

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Review Process

• Focused on the assigned Office action, but will review prosecution history as appropriate

• A Compliant Rejection will include:
  – Correct Claim(s)
  – Correct Statute
  – Sufficient Evidence

• All reviews include feedback
  – Positive reinforcement
  – Best practices/areas for improvement
  – Issues for consideration

Email questions to PatentQuality@uspto.gov
Returns to TC

- All reviews are provided to the TC for appropriate action categorized as:
  - Noncompliant
  - For Consideration
  - Pass Through
  - Accolade

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Let’s Chat about
How Is An Examiner’s Work Product Reviewed?

Sandie Spyrou
Supervisor, Office of Patent Quality Assurance

Christyann Pulliam
Supervisor, Technology Center 2100

Email questions to PatentQuality@uspto.gov
Next Patent Quality Chat
TBD

December 12, 2017
Thank you for joining us today!

Patent Quality Chat
Webinar Series 2017
November 14, 2017