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To: External Examination Time Study <ExternalExaminationTimeStudy@USPTO.GOV>

Subject: Comments on examination time goals

Questions Concerning Examination Time Goals

(1) Do you perceive a difference in the quality of examination performed in complex technologies compared to less complex technologies?

If yes, which do you perceive as higher quality and why? In what aspect(s) is the quality of examination higher?

As an examiner the quality is about the same. As examiners we only have certain amount of time to allocate to each application. While complex technologies may at first be harder to understand and grasp they are much easier to search and figure out if they are allowable. However, it is very important to realize that many less complex technologies can often be very difficult search and find. The reasoning is because there is an exponential amount of art that examiners have to sort. This requires often much more time and prolongs prosecution in either trying to get the application allowed or abandoned. It is important to note that technologies that are much newer are much more easier to get allowed and do not further require additional search, response to arguments, additional interview and stakeholder responses as many saturated or less complex arts. It is from my opinion that less complex art units have much lesser quality of work due to time restrictions of per each application. And most art units are clearly miscategorized because they encompass both complex and less complex technologies but are categorized according to being less complex which leads to poor quality in examination in all types applications regardless of complexity.

(2) What factors do you consider when estimating the amount of time needed to take various steps in prosecution, such as preparing responses to Office actions or preparing for interviews? In particular, if you prosecute applications in a variety of technology areas, how do those factors vary among the technologies?

Often times the cases that are most simplest to understand will take the longest time to prosecute applications. This is because it is quickly recognized as something that can be immediately allowed. The art is vast and requires a very lengthy and burdensome search to address broad limitations of the claim. These types cases where the art isn't particularly new are often the most burdensome to find and dispose.

(3) Are the applications you prosecute more or less complex than in the past, e.g., 10 years ago? What factors contribute to the increase or decrease in complexity? Do you believe the increase or decrease in complexity has affected the amount of time it takes to prosecute the applications? If so, by how much? Do you believe the increase or decrease in complexity has affected the quality of examination? If so, how?

Applications that are currently filed today are much more complex than past year. They are both complex in understanding the information and the fact they require extensive searching due to the breadth of the claims. I don't think simply because it is hard to understand an application has affected quality. I also believe because there is a lot more art and resources now that it requires much more time to find the best art. It is combination of both the complexity and the available art that affects the quality of examination. It is clearly an issue in the 1600 and 1700 TCs.

(4) In order to increase the quality of examination, do you believe that an increase in the time allotted for examination should be designated for specific activities, such as interviews, or left to the discretion of the examiner? What activities would you prioritize and allocate more time to?

I certainly feel that interviews should be given more time. Examiners are often only provided 1 hr for interview (so 30 mins to prepare and 30 mins to conduct the interview). However, it is very common that many interviews go above 30 mins and even above an hour. Many examiners feel shorted with the time allocation because it can clearly take more than 1 hr to prepare for some these interviews. I would like to remind you that many of these interviews are arguments that often used presented in final or after final responses (which themselves clearly take well above 1 hr to complete). Excluding AFCP 2.0, the after finals in general lack quality due to lack of time or examination credit in completing them. Another activity that is underlooked by the administration are RESTRICTIONS. It is quite common for many chemical arts to require restrictions. Often times these restrictions are so complex that they can take well above 2 hours to complete. However, examiners are only awarded 1 hour. It is also noted that restrictions have much more downside in that in return they come back as amendments are put on a 'clock' which further adds to stress and quality in completing office actions.

(5) Are there any portions of Office actions which you feel do not add value or quality to the examination? If yes, what are they?

No.

(6) What other activities beyond examining, such as research or training, could examiners spend time on that would add value? Why do you believe these activities could add value?

One-on-one mentorship with an expert in the art would be very much invaluable. Examiners coming in from the academy have only broader understanding. They fail to understand that each art unit and even each primary / SPE have different ways of examining. If primary and/or SPEs initially work together on applications (i.e. the way they interpret claims, how they search, how they write office actions) there would much less confusion and better understanding as to how to complete different applications. But it is very rare that many SPEs/Primary work one-on-one because they themselves are quite busy and rushed for time.

(7) While the focus of this request for comments and the roundtables is to find the appropriate amount of time for examination, cost and pendency are also contributing factors. Do these factors raise a concern that should be considered?

If the USPTO genuinely cares about quality patents they need to seriously consider substantially increasing the amount of time for examination (especially for the TC 1600s/1700s). They need to also increase in hiring more examiners AND providing them quality training (one-on-one). Hiring more examiners will help reduce pendency. While this initially may increase cost but this in return will result in much improved patent quality and allow retain many examiners (who often leave because of burden load of work) thereby reducing cost in that aspect.

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