

Dear sirs,

The Master Review Form is definitely a step in the right direction! I would like to make a few suggestions for it. I think it would help to also have a check on whether any claim limitations were interpreted under 112(f), even they weren't rejected for this interpretation. It seems like a very large number of examiners are both applying this interpretation incorrectly (particularly examiners in the computer-related areas, where it seems many of them are under the impression that any and every software term is a nonce word and thus invokes 112(f)), and not understanding what it actually means (different examination standards for 112(f) limitations and non-invoking (broadest reasonable interpretation) limitations).

Additionally, in light of all the new guidelines that have come out since Alice, I think it would be helpful to have some stricter checks on whether any claims rejected under 101 as being directed to an abstract idea were made according to the guidelines -- i.e., were made in comparison to an abstract idea as identified by the courts, were made over the claim as a whole, properly identified any additional limitations in the claim and explained why they do not amount to more than the abstract idea. On a related note, I think it would greatly improve quality if examiners were required to treat any change in the rationale for finding a claim to be directed to an abstract idea as a new grounds of rejection. I have dealt far too many times with examiners who would reject a claim as similar to abstract idea A and then, after I filed a long and detailed response showing how they were not similar, would turn around and say, basically, "never mind, the claims are actually similar to abstract idea B" and go final. This does not give us as applicants a fair chance to respond and correct any issues, when each time we respond we are given a new abstract idea that our claims may be similar to.

Additionally, I think it would be an enormous boost in quality if applicants had a chance to fill out a similar Master Review Form upon filing a response to an Office Action. We probably will have far more time to go through an Office Action and any cited art, and in far greater detail, than a reviewer could in the course of preparing our response and amendments. Perhaps, in addition to this MRF filled out by reviewers, a tally could be kept of the total number of rejections/objections/112(f) interpretations done by an examiner across all cases in a quarter. Then, each time an applicant files a response to an Office Action, they would have a chance to fill out a similar MRF, with comments as well as checkboxes for more detailed review, that would go to the examiner's SPE, thus providing examiner-specific feedback.

And while every examiner can have an "off" OA here and there, and there are applicants who don't understand some of these issues as well, if, say, a tally showed that a given examiner had made ten 112(f) interpretations in a quarter, and nine of them came back with an applicant's review that these interpretations had been made incorrectly, that might be a strong sign that this examiner could use some refresher training in 112(f), or some additional supervision, thus providing very focused training to those who need it most. Likewise, if most of this feedback alleging that 112(f) had been applied incorrectly was found to be in error, so that it was actually most applicants misunderstanding 112(f), the PTO could perhaps consider putting up additional slides or "training" for applicants, to make sure both applicants and examiners have the same understanding of the examination standards.

Finally, and this is not related to the MRF: I think it would be a great help in quality to make interviews after final a matter of right, as interviews after non-final are. While most examiners do their best to do the best work they can, there are certain examiners who simply don't care. If applicants receive a poorer quality Office Action, with poor art or erroneous rejections, and assume that the examiner simply misunderstood something and respond with a detailed written response in good faith to clarify what

appears to be the misunderstanding, there are a good number of examiners who will simply go final, and then refuse an interview to discuss the unresolved issues at that point because it is discretionary. By the time we realize we are dealing with such an examiner, there is nothing left we can do except file an RCE.

Thank you for your time,
Sarah Drabik