

First, an unbiased, written from the USPTO perspective, on the “Pro” and “Cons” of a composite quality score.

“Pro”

1. It provides a simple to understand summary of all other quality measurements
2. It provides an answer similar to “how high is this bar chart?”
3. It provides extreme consistency in measurement

“Con”

1. It does not provide a comparison between other periods (ie. years), as such it is for the status quo and against “zero based budgeting”
2. It provides extreme consistency in measurement. It has such extreme consistency that it is difficult/impossible to change the summary and it is in danger of providing “self justification” – the measurement summary is the justification for its continued existence.

“What it has”

1. It provides a shortcut method of knowing whether you are on the right track and headed in the right direction.

“What it lacks”

1. It doesn’t provide an answer to “is it worth it to measure?”. This can be done by measuring the value of patents in the US Economy (simple is better than total accuracy here, and can be used by a stock market measurement of any company with an EBITDA higher than 50% because it must be protected by a patent or patents to achieve a high EBITDA), the cost of obtaining a patent (USPTO fees + other legal fees), and the cost of patent quality measurement (a % of the cost of a patent).
2. It prevents innovation and new ways of measuring things. It is not all bad to prevent innovation because you don’t want to have a new system every year and the current Quality Metrics system provides some consistency. However, the consistency of measurement has to be balanced against a desire for improvement.

Naturally, any system that replaces it should keep as much of the advantage as possible while minimizing the disadvantage.

“Criteria for an alternative”

1. Does the cost of quality measurement for the alternative go up or down?
2. If it goes up, is the information by the alternative that is provided to the USPTO worth it?
3. Does the alternative provide an improved measurement? (more accurate or more precise) How much?
4. Is the alternative more neutral or less neutral? Does it provide greater control or less control by the USPTO? Is it feasible to get non-USPTO experts to administer this and would the same results be obtained?

Comment: I like it best when the results are measurable in a narrower band with more predictable results. Any result that is measured has to be viewed as either “it costs too much to measure” or “it doesn’t give a result that can be auctioned”. It can also be viewed as similar to calculus and irrational

numbers – you can never get to 100%, but the system strives to get as close to 100% as possible for as little additional money as possible.

Concerns: I am concerned because any real improvements to patent quality have to be built in, they can't be inspected in. As such, the originator of the patent and the patent examiner should be brought in and included as early as possible by the patent quality process so that real improvements can be made. I am also concerned because of the emphasis on "if someone perceives there is a problem, there is a problem". I come from a state whose motto is the Latin version of "To Be rather than to Seem". I agree that perception is important. However, reality is more important. Patent quality metrics can answer some questions related to perception, but the cold hard numbers should point to a reality that is irrefutable.

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