

Firstly I would like to applaud the Office for its effort to improve its overhaul quality, not only the number of rejected applications, which seemed to be the leading effort for many years.

As a practitioner I am commonly exposed to extreme low quality office actions, which may be written in English but lack a minimal technical and/or basic logic. Furthermore I observe the problem of hindsight – Seeing so commonly four, five, six, and more references being used to reject a claim in a manner that clearly is hindsight.

I would like to offer two improvements to the Office quality attempts, as well as quality metrics efforts.

I propose that the Office would establish a program to assess the quality of rejections, where for each examiner the Office will randomly select non-allowance Office Actions, review the rejection for law, technical understanding and sound understanding of logic and law. The results should be communicated to the Examiner and supervisor and steps taken to improve the examiner’s quality and to reward good, well thought and fair rejections.

The second improvement I propose is admittedly somewhat tangential to the metrics question is to establish a procedure whereby a rejection utilizing more than three references to reject an independent claim under 35 U.S.C. 103, must be approved by a supervisor and a substantive record stating why the examiner and supervisor believe that the rejection is not merely looking at the applicant’s disclosure and attempting to aggregate the elements using the applicant’s disclosure against itself.

Respectfully
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