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Subject: After Final Practice - Quality Issues and Examiner Stress

I have been working in the USPTO over 33 years. I found this year is the most stressful years for examiners because of the Quality Issue with the P3, Pre-Appeal Conference, and AFCP2.0.

Under the new guideline and examination procedure, many patentable applications will become unpatentable and many patents will carry no patentable weight and no patent value. Examiners and SPEs have to spend much more time to work on an application for “nothing”, practically for “nothing” and applicants have to spend more money for the “reopen prosecution” applications because these applications will go back to ground zero for further search and reconsideration. Absolutely there is no benefit for examiners, applicants, and patentees. The so called Quality Issue will become worst instead of improving the quality of patent applications. This will prolong the prosecution time of many applications. Most important thing is that this will set back and discourage examiners making Final Rejection to avoid P3 and Pre-Appeal Conference.

Most important thing is that the After Final Practice procedure is absolutely incorrect for the following reasons:

The After Final Practice procedure is incorrect. The correct procedure should be: After Final Rejection, Office should require applicants to file a AFCP2.0 amendatory for reconsideration with/without amendment. No P3 or Pre-Appeal Conference request will be accepted without the filing of AFCP2.0 for reconsideration.

The After Final Rejection amendment may require further search and examination or the amendment may add new issues require applicant to file a RCE for reconsideration and further search. Without filing an AFCP2.0, applicant filed a P3 or Pre-Appeal Conference will force the examiners and SPEs to examine the new issues without credit for the Reopen Prosecution and this will put the application back to ground zero.

The P3 and the Pre-Appeal Conference procedures do not give applicants another chance to file a response or an amendment before the applications go to the Board. After the Pre-Appeal Conference, applicant should be able to file a response or an amendment before they file an appeal brief.

In conclusion, the After Final Practice procedure should be:

Final Rejection – AFCP2.0 request with/without amendment – (P3 or Pre-Appeal Conference not both) or RCE – Appeal Brief to the Board