

Conditions for being accorded special status for examination under Project Exchange/Patent Application Backlog Reduction Stimulus Plan:

- (1) The application for which special status is sought is a nonprovisional application that has an actual filing date earlier than October 1, 2009.
- (2) The applicant has another copending nonprovisional application that has an actual filing date earlier than October 1, 2009, and is complete under 37 CFR 1.53. For example, the application must contain an executed oath or declaration and payment of the filing fee, the search fee, the examination fee, any applicable application size fee, and any applicable excess claims fee.
- (3) The application for which special status is sought and the other copending nonprovisional application must be either owned by the same party as of October 1, 2009, or name at least one inventor in common.
- (4) The applicant must file a letter of express abandonment under 37 CFR 1.138(a) in the copending nonprovisional application before it has been taken up for examination. The applicant must include the following statements with the letter of express abandonment:
 - a) a statement that the applicant has not and will not file an application that claims the benefit of the expressly abandoned application under any provision of title 35, United States Code;
 - b) a statement that the applicant agrees not to request a refund of any fees paid in the expressly abandoned application; and
 - c) a statement that the applicant has not and will not file a new application that claims the same invention claimed in the expressly abandoned application (the phrase “same

invention” has the same meaning as used in the context of statutory double patenting under 35 U.S.C. 101).

(5) The applicant files a petition under 37 CFR 1.102 in the application for which special status is sought. The petition must:

- a) identify the basis under which special status is being sought (express abandonment of another copending application);
- b) include a copy of a letter of express abandonment and the statements that accompany the letter of express abandonment from the copending application that was expressly abandoned;
- c) include a specific identification of the relationship between the applications that qualifies the application for special status (*e.g.*, identifying, by name, a common inventor, assignee or owner);
- d) identify, by application number if available, the application that is being expressly abandoned;
- e) provide a statement certifying that applicant has not filed petitions in more than fourteen other applications requesting special status under this program; and
- f) provide a statement that applicant agrees to make an election without traverse in a telephonic interview if the Office determines that the claims of the application to be made special are directed to two or more independent and distinct inventions (see 35 U.S.C. 121, 37 CFR 1.141–142).

(6) The express abandonment of an application may not form the basis for more than one petition under 37 CFR 1.102.

(7) The requirement for a fee to consider a petition to make special for applications pertaining to Project Exchange/Patent Application Backlog Reduction Stimulus Plan is **waived**.

(8) The USPTO will accord special status for examination under the Patent Application Backlog Reduction Stimulus Plan to only the first 10,000 applications that meet the requirements of the Patent Application Backlog Reduction Stimulus Plan.