

## Enhanced First Action Interview Pilot Program

### I. Introduction

In April of 2008, the United States Patent and Trademark Office (USPTO) established a pilot First Action Interview program offering an applicant an interview as a matter of right before issuance of a first action.<sup>1</sup> The USPTO indicated the pilot program would run for six months, and that the USPTO would extend, terminate, revise or otherwise take appropriate action after evaluating the effectiveness of the pilot program. Based upon a review of the pilot program, the USPTO is revising the pilot as follows:

1. The pilot is being expanded across more art units in the Technology Centers.
2. Applicants will be given greater flexibility in selecting the amount of procedure they need to advance prosecution during the pilot program. Previously, all applicants had to go through all phases of the pilot's procedure. After receiving a Pre-interview communication that contains the results of the examiner's prior art search, applicants may choose from the following:
  - a. The full pilot procedure (Pre-interview communication, interview and first action).
  - b. Waiver of the interview (Pre-interview communication and first action only).
  - c. Waiver of the interview and first action (by filing a reply in compliance with 37 CFR 1.111(b) in response to the Pre-interview communication).
  - d. Waiver of the first action (by requesting entry of a proposed amendment during the interview).
3. The time period to reply set forth in the Pre-interview communication will be extendable by one additional month. Previously, the time period for reply was non-extendable.
4. The interview request form must be filed electronically to enhance proper tracking, and be accompanied by a proposed amendment or arguments.
5. The time period within which to conduct the interview will be two months from the date of filing the interview request form. Previously, the time period was two months from the Office notice date for the Pre-interview communication.
6. Failure to timely reply to the Pre-interview communication or to timely conduct the interview will not result in abandonment of the application. Instead, a first action will be provided (similar to waving the interview).

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<sup>1</sup> See [First Action Interview Pilot Program](#), 1329 Off. Gaz. Pat. Office 159 (April 22, 2008).