

From: nakamina
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To: 3-tracks comments
Subject: Comment on Enhanced Examination Timing Control Initiative

Hon. David J. Kappos
Under Secretary of Commerce for Intellectual Property and Director of the United States
Patent and Trademark Office.

We submit our comments on your proposal on Enhanced Examination timing Control Initiative by attached document.

We appreciate if you could read it and take into account our opinion.

Sincerely yours,

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Comment on Enhanced Examination Timing Control Initiative

August 20, 2010
Sub-Committee on Policy Planning
Committee on Intellectual Property
Nippon Keidanren

1. Fundamental Stance

Nippon Keidanren fundamentally agrees with the three-track scheme* for examination timing announced by the United States Patent and Trademark Office (USPTO) on June 4 in the aim of reducing the pendency of patent applications.

However, we would like to make the following request in respect of applications where the U.S. is the country of second filing.

2. Handling of Applications Where the U.S. Is the Country of Second Filing

Under the USPTO initiative, examination in the U.S. would not begin until first action has been taken by the foreign office where the patent was originally filed, and applicants would be required to submit a copy of the first action and an appropriate reply.

However, under this scheme it is possible that applicants wishing to obtain USPTO examination results rapidly might not be able to achieve this aim due to delay in examination in the country of first filing. There is also a risk that an increasing number of applicants wishing to register rights quickly in the U.S. may choose the U.S. as the country of first filing, which could lead to examination delays in the U.S.—the opposite result to that desired. Moreover, compared to the regular application process, the requirement to submit documentation relating to first action in the country of first filing to the USPTO places an excessive procedural burden on the applicant.

Accordingly, applications where the U.S. is the country of second filing should be handled in the same way as those where the U.S. is the country of first filing.

* Three-track scheme divided into (1) prioritized (rapid) examination, (2) processing under the current procedure, and (3) delayed examination (up to 30 months).