

## **Extension and Expansion of Pilot Concerning Public Submission Of Peer Reviewed Prior Art**

### I. Introduction

In June of 2007, as part of the efforts of the United States Patent and Trademark Office (Office) to implement its Strategic Plan, the Office announced a pilot to determine the extent to which the organized submission of documents together with comments by the public will provide useful prior art for examiners. The stated purpose of the pilot was to test whether such collaboration could effectively locate prior art that might not otherwise be located by the Office during the typical patent examination process. A notice entitled "Pilot Concerning Public Submission Of Peer Reviewed Prior Art" (1319 Off. Gaz. Pat. Office 146 (Jun. 26, 2007)) provided the details of the program.

As announced, the pilot program was limited in scope, duration, and size. While the Office has not yet completed its evaluation of the pilot program, the initial results appear to be promising. In the interest of gathering data from a more diverse pool of patent applications, the pilot is being revised (as detailed below) to extend its duration, increase the maximum number of applications, and to expand the scope of applications eligible for the program.

The Office reserves the right to discontinue this pilot program if continuation is not in the best interests of the Office.

### II. Duration and Size

The pilot program was scheduled to end on June 16, 2008 (with submissions accepted from Peer-to-Patent until October 17, 2008), or after 250 participating patent applications have been submitted to the Office, whichever occurs first.

The program is hereby extended for an additional twelve months and is now expected to end on June 15, 2009 (with submissions accepted from Peer-to-Patent until October 15,

2009), or after 400 participating patent applications have been submitted to the Office, whichever occurs first.

### III. Scope

Part of the rationale behind the pilot was to address the public perception that USPTO examiners were not identifying the best references, particularly in technology areas where the Office does not have a long history of examining that technology, where non-patent literature is important to the examination of that technology, or both.

The pilot was initially restricted to patent applications assigned to Technology Center 2100 which examines applications in computer-related arts. Effective immediately, the scope of the program is being expanded to include applications in Class 705 (Data Processing: Financial Business Practice, Management, or Cost/Price Determination).

The inclusion of the Class 705 applications in the program is expected to enhance the analysis of the resultant data obtained through this pilot.

### IV. Limitations on Number of Applications

In accord with the extended duration, size, and scope of the program, the Office is raising the ceiling on the number of applications that may be accepted from a single Applicant.

The Office will now accept no more than 25 total written consents (corresponding to 25 total separate applications) from an Applicant, Applicant's assignee (to include subsidiaries), or Applicant's affiliates. Patent applications that participate in the peer review process, but are not granted advancement of examination for any reason (e.g., because they do not receive at least one document submitted as a potential reference), will not be counted against the 25 total for any one applicant, and will be redocketed to the order of examination they would have held if the application had not partially participated in the peer review project.

V. Procedure

Applicants will be required to use an Office-prepared consent form located at:


<http://www.uspto.gov/web/patents/peerpriorartpilot/consent.pdf>.

To insure prompt handling, the consent form may be faxed to the Office at 571 273-4150 attn: PeerReviewPilot or e-mailed to **PeerReviewPilot2007@USPTO.gov** with a subject line containing the serial number of the application and the word "Consent."

VI. Additional Information

For further information on this pilot, please email **PeerReviewPilot2007@USPTO.gov** or contact Jack Harvey, Director, Technology Center 2100 at [Jack.Harvey@USPTO.gov](mailto:Jack.Harvey@USPTO.gov). General inquiries on the Community Patent Review Project may be addressed to [info@peertopatent.org](mailto:info@peertopatent.org).

Date:

  
\_\_\_\_\_  
John Doll  
Commissioner For Patents