



Pilot Concerning Public Submission of Peer Reviewed Prior Art

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Why USPTO Participation?

- Public Criticism of Patents, Software
- Current Rules Permit Rule 1.99 Submission
- Proof of Concept Pilot
- Importance of getting the best art before the examiner
- Improve patent quality
- Quell negative public perception
- Foster public involvement using Internet collaboration techniques



Examiner Survey

- Web based survey ensured confidentiality
- Coordinated efforts with Patent Examiner Union
- 26 examiners participated
- 32 questions



Examiner Survey Results

- 59% of Examiners thought that Prior Art Submitted by Peer Review was helpful

"the art was much better than what I would see in a normal IDS"

"art was somewhat relevant"

- 24% of Examiners felt that information provided by Peer Review did not turn up in their search
- 36% of Examiners used Prior Art Submitted by Peer Review in their rejections
- 89% of Examiners liked the presentation of Prior Art submitted by Peer Review

"There was a good description of the prior art and how it could be useful"



Examiner Survey Results (continued)

- 19% of Examiners received Prior Art before initial examination
- 54% of these Examiners indicated that the submission assisted in their search
- 21% of Examiners stated that Prior Art from Peer Review was inaccessible by PTO

"Some NPL art that was submitted would not be easily found using the USPTO resources"

"It would have taken much longer to find such art"



Examiner Survey Results (continued)

- 85% of Examiners felt that annotations on Prior Art was clear and well formatted

"There was a good description of the prior art and how it could be useful"

- 21% of Examiners indicated allowable subject matter in the first office action

"Hopefully, with more public participants, the submitted IDS will provide a lot of help to examiners"

"I think that, like the many tools examiners use throughout the examination process, Peer-to-Patent would be another tool to help examiners find pertinent art"

- 92% of Examiner would welcome examining another Peer-to-Patent application



Examiner Survey Results (continued)

- 73% thought that Peer Review process would be helpful if implemented in regular Office practice

"At least with P2P IDS, the art has notes that aid an Examiner in better determining if the art is useful"

"more relevant than the normally submitted IDS"

"I think it would be helpful as a whole, it seems that peers interpret claims and references differently than examiners do. That is their interpretations seem much broader than an examiner might see them"

"While it may not always produce useable art, it's clear that it has that potential, especially if more people participate and provide more art"



Examiner Survey Results (continued)

- Other Comments from Examiners regarding the Pilot

"I thought the annotations were helpful to see how the public mapped the art. It was in a way like asking another examiner how they interpreted a claim"

"I found all aspects (of the pilot) somewhat useful. The discussions gave me an insight as to how peers view patent claims and how they interpret references. Once seeing the references it helped focus on another search."

"It was nice to see that the art submitted could be evaluated, given a thumbs up or thumbs down"

"Even though the claims were not explicitly mapped to the prior art, the discussion on what the peers thought gives an insight on how others interpret the claim and prior art"



Prospects for the Future

The future of Peer Review at the USPTO depends on a number of factors:

- Is this what the customer wants?
- Is this process good for the Patent system?
- Is it practical for 400k+ applications filed each year?
- Will such a process have a positive impact on Quality or Pendency?
- What impact will pending/future legislation have?
- Is it cost effective for the USPTO and the customer?



Prospects for the Future

For more information on the Peer Review Pilot:

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

THANK YOU