



[3510-16-P]

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO-P-2016-0040]

Request for Comments on Examination Time Goals

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Request for comments.

SUMMARY: The United States Patent and Trademark Office (Office or USPTO) is soliciting public feedback as part of an effort to reevaluate its examination time goals. Examination time goals vary by technology and represent the average amount of time that a patent examiner is expected to spend examining a patent application in a particular technology. The Office plans to use the public feedback as an input to help ensure that the Office's examination time goals accurately reflect the amount of time needed by examiners to conduct quality examination in a manner that responds to stakeholders' interests. In addition to accepting public feedback through the submission of written comments, the Office will provide the following avenues for increased interactive participation: IdeaScale[®], a Web-based collaboration tool that allows users to post

comments and interact with the posted comments of others; and five roundtables that the Office will be conducting in: Alexandria, Virginia; Detroit, Michigan; Denver, Colorado; Dallas, Texas; and San Jose, California.

DATES: Written Comments Deadline: To be ensured of consideration, written comments must be received on or before [Insert date 60 days after the date of publication in the FEDERAL REGISTER].

ADDRESSES: Written comments should be sent by electronic mail addressed to ExternalExaminationTimeStudy@USPTO.gov. Comments also may be submitted by postal mail addressed to: Mail Stop Comments--Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA, 22313-1450, marked to the attention of Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy.

Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail in order to facilitate posting on the USPTO's Internet Web site (<http://www.uspto.gov>). Electronic comments may be submitted in plain text, ADOBE® portable document format, or MICROSOFT WORD® format. Comments not submitted electronically should be submitted on paper in a format that facilitates digital scanning into ADOBE® portable document format.

The comments will be available for viewing via the USPTO's Internet Web site (<http://www.uspto.gov>). The comments also will be available for public inspection at the Office of the Commissioner for Patents, currently located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia 22314. Because the comments will be made publicly available, information that the submitter does not desire to make public, such as an address or phone number, should not be included in the comments.

FOR FURTHER INFORMATION CONTACT: Roundtable information, including roundtable registration information: Elizabeth Magargel, Strategic Planning Project Manager, Office of the Assistant Deputy Commissioner for Patent Operations, by telephone at (571) 270-7248.

Written comments: Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (571) 272-7728.

Examination time goals: Daniel Sullivan, Director Technology Center 1600, by telephone at (571) 272-0900.

SUPPLEMENTARY INFORMATION: The Office has a staff of approximately 8,400 patent examiners who examine patent applications in hundreds of technology areas. Each technology area is assigned an examination time goal. The goals are used by the Office for a variety of purposes, including forecasting pendency and staffing needs and

evaluating individual examiner performance. The goals originally were assigned over 40 years ago and have been adjusted twice.

Since the examination time goals were originally assigned, significant changes to the examination process have occurred, including increased use of electronic tools, changes in law due to court decisions, a growing volume of prior art, and progress in technology, which results in increasingly complex subject matter in applications. In addition, the Office recently transitioned from the United States Patent Classification (USPC) system to the Cooperative Patent Classification (CPC) system. Because the current examination time goals were assigned based on the USPC system, implementation of the CPC system has caused the Office to reconsider and reassess the assignments of examination time goals. Furthermore, the Office is (i) implementing the Enhanced Patent Quality Initiatives in order to provide a higher quality examination to our stakeholders and (ii) assessing the relationship between examination time and value-added examination activities, such as best practices for enhancing the clarity of the record with respect to claim interpretation, interview summaries, and reasons for allowance. All of these factors warrant a reevaluation of the Office's examination time goals.

To help inform public comments responsive to this request for comments (RFC), the Office has prepared background material illustrating the use of examination time goals in the context of individual examiner evaluation, and as an input into the model used to forecast pendency and hiring needs. These materials can be found at <http://www.uspto.gov/patent/initiatives/eta-external-outreach>.

The Office has generated the following list of questions concerning examination time goals to further inform comments responsive to this RFC. Responders to this RFC can choose to address as many of these questions as desired. Responders are not limited to submitting information addressing the questions below. The Office welcomes any other comments on the topic of this RFC that may be informative, for example those that facilitate an understanding of the interests of stakeholders with respect to quality, pendency, and cost for services. A further area of inquiry seeks to shed light on other characteristics of patent applications, besides technological complexity, which lead to a more time-consuming examination.

(1) Do you perceive a difference in the quality of examination performed in complex technologies compared to less complex technologies? If yes, which do you perceive as higher quality and why? In what aspect(s) is the quality of examination higher?

(2) What factors do you consider when estimating the amount of time needed to take various steps in prosecution, such as preparing responses to Office actions or preparing for interviews? In particular, if you prosecute applications in a variety of technology areas, how do those factors vary among the technologies?

(3) Are the applications you prosecute more or less complex than in the past, e.g., 10 years ago? What factors contribute to the increase or decrease in complexity? Do you believe the increase or decrease in complexity has affected the amount of time it takes to

prosecute the applications? If so, by how much? Do you believe the increase or decrease in complexity has affected the quality of examination? If so, how?

(4) In order to increase the quality of examination, do you believe that an increase in the time allotted for examination should be designated for specific activities, such as interviews, or left to the discretion of the examiner? What activities would you prioritize and allocate more time to?

(5) Are there any portions of Office actions which you feel do not add value or quality to the examination? If yes, what are they?

(6) What other activities beyond examining, such as research or training, could examiners spend time on that would add value? Why do you believe these activities could add value?

(7) While the focus of this request for comments and the roundtables is to find the appropriate amount of time for examination, cost and pendency are also contributing factors. Do these factors raise a concern that should be considered?

In addition to accepting public feedback through the submission of written comments, the Office will provide an avenue for interactive participation using IdeaScale[®]. IdeaScale[®] allows users to post comments on a topic, and view and respond to others' comments. Users also may vote to indicate agreement or disagreement with a particular comment.

Information on how to use IdeaScale[®] to comment on examination time goals is available at <http://www.uspto.gov/patent/initiatives/eta-external-outreach>.

The Office also will provide an avenue for interactive participation by conducting five public roundtables. Information on the first two roundtables to be conducted, in Alexandria, Virginia, and Dallas, Texas, including locations, dates, and how to participate, is set forth below.

ALEXANDRIA AND DALLAS ROUNDTABLE REGISTRATION

INFORMATION: Roundtables will be conducted in Alexandria, Virginia, and Dallas, Texas, as detailed below. Registration is required, and early registration is recommended because seating is limited. There is no fee to register for either roundtable, and registration will be on a first-come, first-served basis. Registration on the day of either roundtable will be permitted on a space-available basis beginning 30 minutes before the roundtable.

To register, please send an e-mail message to

ExternalExaminationTimeStudy@USPTO.gov and provide the following information:

(1) your name, title, and if applicable, company or organization, address, phone number, and e-mail address; and (2) which roundtable you wish to attend. Each attendee, even if from the same organization, must register separately. If you need special accommodations, e.g., due to a disability, please inform a contact person identified below.

For more information on the Alexandria and Dallas roundtables, including the agenda for each roundtable and webcast access instructions for the Alexandria roundtable, please visit <http://www.uspto.gov/patent/initiatives/eta-external-outreach>.

ALEXANDRIA ROUNDTABLE

ALEXANDRIA DATES: Roundtable Date: The Alexandria roundtable will be held on Monday, November 14, 2016, beginning at 9:00 am Eastern Standard Time (EST) and ending at 11:00 am EST.

Registration Deadline: Registration to attend the Alexandria roundtable in person or via webcast is requested by November 7, 2016. See the “Roundtable Registration Information” section of this notice for additional details on how to register.

ADDRESS OF ALEXANDRIA ROUNDTABLE: The Alexandria roundtable will be held at USPTO Headquarters in the Madison Building, Madison Auditorium, Concourse Level, 600 Dulany Street, Alexandria, VA 22314.

DALLAS ROUNDTABLE

DALLAS DATES: Roundtable Date: The Dallas roundtable will be held on Tuesday, November 29, 2016, beginning at 10:00 am Central Standard Time (CST) and ending at 12:00 pm CST.

Registration Deadline: Registration to attend the Dallas roundtable is requested by November 22, 2016. See the “Roundtable Registration Information” section of this notice for additional details on how to register.

ADDRESS OF DALLAS ROUNDTABLE: The Dallas roundtable will be held at the USPTO’s Texas Regional Office in the Terminal Annex Federal Building, 207 S. Houston Street, Suite 159, Dallas, TX 75202.

DETROIT, DENVER, AND SAN JOSE ROUNDTABLES

Information on the roundtables to be conducted in Detroit, Michigan, Denver, Colorado, and San Jose, California will be provided at <http://www.uspto.gov/patent/initiatives/eta-external-outreach> as soon as it becomes available.

Date: October 19, 2016.

Russell Slifer
Deputy Under Secretary of Commerce for Intellectual Property and
Deputy Director of the United States Patent and Trademark Office
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