

NYIPLA One-Day Patent CLE Seminar

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Examiner Production System

The background of the slide is a dark blue field filled with numerous out-of-focus light spots (bokeh) and thin, glowing blue lines that radiate from a central point, creating a sense of depth and movement. The overall aesthetic is modern and technological.

Examiner Work Credit

USPTO Count System – Production Requirements

Each patent examiner has a minimum production requirement

- Examiners receive “counts” for completed work
- Two counts per patent application

The number of counts needed for a time period depends upon:

- Technology being examined
- “Grade” of the examiner – higher graded examiners are more senior and have greater production requirements
- Time spent examining

Examiner Performance Ratings

- Examiners are rated on Work Quality and Production Achieved (Quantity)
- Most examiner performance ratings are reviewed quarterly, with an annual evaluation at the end of the fiscal year

Examiner Work Credit

USPTO Count System (cont.)

- ❑ **2 Counts Per Application**
 - 1.25 counts for first OA on merits
 - .25 counts for final rejection
 - .5 counts for allowance or appeal
 - Abandonment credit brings total counts to 2
 - i.e. .75 if abandoned after first OA on merits

- ❑ **No credit for “rework” (i.e. second non-final action)**

Examiner Work Credit

How Does Non-Examining Time Factor In?

“Other time” reduces examiner production requirements

“Other time” will/can be given for:

Non-examining activities, such as examiner training

Incentive to participate in examining related activities, such as interviews and AFCP 2.0

Attributes of the patent application being examined, such as the number of patent claims and the length of information disclosure statements

Recent Changes to Examination Time

Recent Changes

Examination time for each application based on its classification picture

Additional time given for “harder” applications (e.g. large: # of claims, specification, and/or IDS)

Minimum time for examination raised nearly 5 hours per application

Efficient Prosecution - Suggestions



Efficient Prosecution

Suggestions

Interview, Interview, Interview

- Approx. 10% higher allowance rate
- May provide an indication of what/when to file

Efficient Prosecution

Suggestions

Be Clear

- Clear record advances prosecution, even with disagreements
- Claim construction is at the heart of most disagreements

Use All Resources

- SPE, Group Director
- AFCP

USPTO's Updated Process for Docketing Patent Applications to Examiners

An abstract graphic in shades of blue, featuring a complex network of interconnected lines and nodes. Some nodes are highlighted with bright white or light blue glows, creating a sense of depth and connectivity. The background is a dark blue gradient.

Overview

Prior v. Updated

Prior
Process

USPC Based

One
Classification
Symbol Used for
Routing

Based on Most
Comprehensive
Claim

SPE
Responsibility to
Docket to
Examiners

Updated
Process

CPC Based

Multiple
Classification
Symbols
Typically Used
for Routing

Based on Entire
Disclosure
(Classification
Picture)

Automated Initial
Docketing

Updated Process

Docketing to the Correct Examiner

Application Classification
Picture



Automated Matching

Examiner Portfolio

- Created for Each Examiner
- Based on Previous Applications Examined
- Will Evolve as Technologies Evolve