

USPTO rolls out accelerated examination for simple patent applications

By **Nick Robertson**

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Patent applications with a single independent claim and 10 or fewer dependent claims are eligible for a new streamlined examination pilot program, the US Patent and Trademark Office announced Friday. The pilot is intended to further reduce the office's unexamined patent inventory and pendency.

The US Patent and Trademark Office announced Oct. 24 that patent applications with a "streamlined claim set" can receive accelerated first-office action examination via a new pilot program.

Currently pending utility patent applications with only a single independent claim and 10 or fewer dependent claims are eligible for the Streamlined Claim Set Pilot Program starting Monday, which would allow the application to be examined out-of-turn.

"The USPTO anticipates that focusing examination resources on already-filed, unexamined applications that have a streamlined claim set will enhance efforts to reduce the USPTO's inventory and pendency, and that the data gathered from this pilot program will support designing future efforts to expedite patent examination," the office said in a Federal Register notice Monday explaining the program.

Reducing patent inventory and pendency have been top priorities of office leadership, leading to increased production expectations for examiners announced early this month, among other changes (see here). The unexamined patent inventory fell below 800,000 in September, weeks ahead of the office's goal (see here).

Widerman Malek partner Dan Pierron told MLex that he believes some applicants will trim down their claims in order to qualify for the pilot, speeding up their first action examination and reducing workloads for examiners.

"It's entirely possible that the reduction in claims ... is not a terrible sacrifice for them. Sometimes there's inventions where you can adequately cover and protect an invention without having to vary between method and system claims," Pierron said. "Sometimes, that's just not necessary, and so the need for multiple independent claims is somewhat reduced, and maybe that's just significantly outweighed by the benefit of getting this bigger prosecution turnaround."

The pilot appears to replace the utility patent Accelerated Examination program, which was discontinued in July. That program granted out-of-turn examinations for inventions "enhancing the quality of the environment, contributing to the development or conservation of energy resources, or contributing to countering terrorism."

In discontinuing that program, the office said it planned to focus resources instead on reducing

the unexamined patent inventory and reducing pendency. The streamlined claims pilot fills that role, Pierron said.

"Those old programs were about important technology areas, and they wanted to encourage development by shortening that prosecution timeline," he said. "Here, this is squarely about addressing the backlog and incentivizing people or incentivizing applicants to rework and ultimately reduce the amount of work that is needed to be performed by examiners in order to perform their examination duties on a given application."

Under the new pilot, each technology center will accept about 200 applications, with the program open until Oct. 27, 2026, or until each center reaches that threshold, the office said.

The acceleration only applies to the first office action, with continuations and divisional applications ineligible. Further, any non-publication requests regarding the application must be withdrawn.

Pierron said applicants that take advantage of the pilot may still file continuations later, however, allowing them to "test the water" with limited-claims applications before expanding claims in a later continuing application.

"I think the optional nature of this is great, and I think it's a creative solution to addressing the backlog in a way that can align the USPTO interest in doing so with the interest of applicants," he said.

The new pilot provides similar advantages for first action examination as the Track One program, a more expensive accelerated examination program which expanded from 15,000 to 20,000 applications annually in July.

The streamlined application program fee is between \$30 and \$150, while the Track One fee is between \$900 and \$4,500 per application. Track One is a more robust program which accelerates applications of any size and continues beyond the first office action.

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