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General Comment: The following suggestion addresses the stated problem of high numbers of continuation and RCE patent applications.

Summary: An additional track for patent examination, on Option 3, is proposed which would give the Customer additional flexibility in requesting priority of examination. In many cases, this could result in an extension of the time for prosecution which would result in a significant re-prioritization of the backlog of applications at the Patent Office.

Patents are filed for a variety of reasons. In many cases, a continuation or RCE is filed in a case which already has allowed claims, but is filed to keep the prosecution pending (keep the case alive?) so that amended claims can be filed at a later date, for example, to thwart a competitor, or to revise the wording in light of a court decision. This is a common practice and fills an important customer need. The customer in these examples is in no hurry to have the claims examined, or to have claims allowed.

Customers of the Patent Office presently have essentially two choices for patent priority: an accelerated track, and a non-accelerated track where applications are considered in the order of filing date. There are some limited provisions for suspending prosecution.

The present proposal is to provide at least one additional track: called an Option 3 patent application (for the sake of discussion). When a user selects option 3, the customer can provide input as to when the customer wishes to receive a first office action. For example, an option 3 customer could request to receive a first office action at the end of two, three, four, five, up to ten or more years. Under certain conditions, the Patent Office could include as a provision of option 3 applications that they will not receive a patent term adjustment.

Option 3 is for those customers who merely wish to keep the case alive and who are not in a hurry to have the case examined. The proposal has some similarity to the various choices available to a customer of the U.S. Postal Service: e.g., first class, priority, and Express mail services, and many other types of services.