

Status Report: USPTO Implementation of the America Invents Act





Prioritized Examination: Implemented

- 1,694 petitions filed
 - 40.8 days on average from filing to petition decision
 - 98.9% grant rate
- 648 prioritized applications received a first Office action
 - 30.7 days on average from grant of petition to first Office action
- 23 Notices of Allowance and 3 Final Rejections issued
 - 39.2 days on average from grant of petition to Notice of Allowance
 - 34.3 days to final rejection
- 1st patent issued on January 10, 2012 from a September 30, 2011 prioritized examination filing



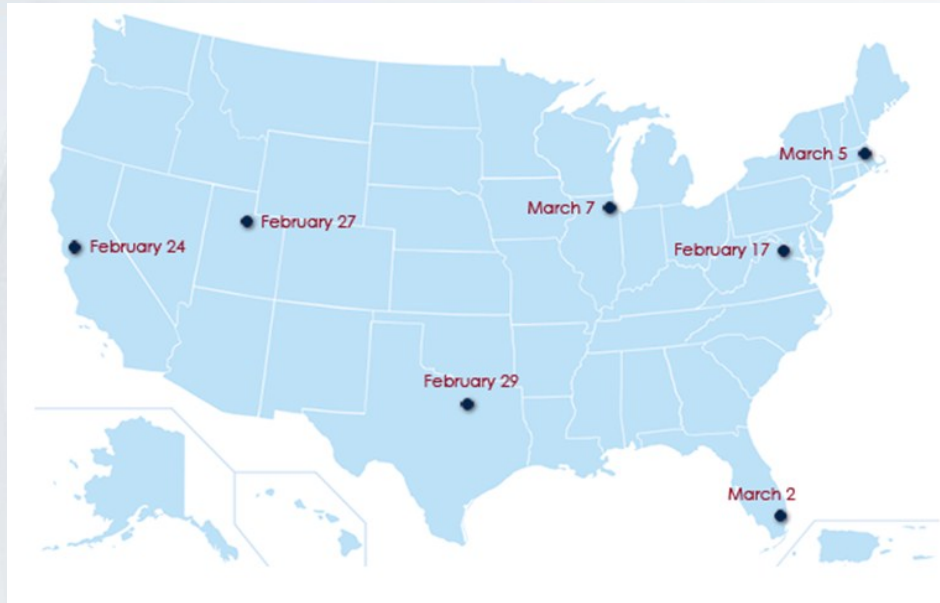
Proposed Rules in Progress

NPRMs Published Ahead of Schedule	NPRMs Awaiting OMB Clearance*
Inventor's oath/declaration	Supplemental examination
Third party submission of prior art in a patent application	Inter partes review
Citation of prior art in a patent file	Post-grant review
OED Statute of Limitations	Transitional program for covered business method patents
	Derivation

* USPTO submitted the proposed rules to OMB on schedule in mid-December 2011 and is expecting OMB clearance by January 18, 2012, per an USPTO-OMB agreement for a 30-day review.



AIA Roadshows on Proposed Rules



Date	Venue	Location
Friday, February 17	USPTO Campus	Alexandria, VA
Friday, February 24	Sunnyvale Public Library	Sunnyvale, CA
Monday, February 27	Marriott Library, University of Utah	Salt Lake City, UT
Wednesday, February 29	Dallas Public Library	Dallas, TX
Friday, March 2	Broward County Main Library	Ft. Lauderdale, FL
Monday, March 5	Boston Public Library	Boston, MA
Wednesday, March 7	Chicago Public Library	Chicago, IL



Fee Setting Implementation

- Fee Setting Authority
 - Authority to set or adjust fees became effective on September 16, 2011
 - Authority to be exercised by rulemaking under 17 month timeline
 - Step 1 of rulemaking involves PPAC fee setting hearings
 - February 15, 2012 @ USPTO
 - February 23, 2012 @ Sunnyvale, CA



Int'l Patent Protection for Small Businesses Study

- USPTO studied how the USPTO and other federal agencies can best financially help small businesses with patent protection overseas
- USPTO consulted with the Department of Commerce and the Small Business Administration
- Report (33 pages) timely submitted to Congress on January 13, 2012



Int'l Patent Protection Report Recommendations

- Engage in diplomacy and harmonization to reduce the costs associated with filing foreign patent applications (e.g., via small entity discounts);
- Expand IP education and training for U.S. small businesses;
- Engage industry regarding how to best support U.S. small business efforts to patent internationally (e.g., corporate venture capital); and
- Collect more information and conduct further study regarding governmental financial assistance to U.S. small businesses (e.g., loan versus grant)



Prior User Rights Study

- USPTO studied the operation of prior user rights (PUR) in other industrialized countries
- USPTO consulted with the United States Trade Representative, Secretary of State, and Attorney General
- Report (60-pages) timely submitted to Congress on January 13, 2012



Prior User Rights Report Recommendations

- PUR defense in the AIA is consistent with that offered by major trading partners;
- No substantial evidence that PUR defense in the AIA will have a negative impact on innovation, venture funding, small businesses, universities, or independent inventors;
- U.S. should re-evaluate economic impact of PUR defense in “Implementation of AIA” report due to Congress in 2015;
- PUR defense is appropriate balance between trade secret protection and patent law; and
- U.S. patent law should provide for a PUR defense to address inequity inherent in a first-inventor-to-file system



Genetic Testing Study

- USPTO to report on effective ways to provide independent, confirming genetic diagnostic tests where:
 - gene patents; and
 - exclusive licensing for primary genetic diagnostic tests
- Federal Register RFI to issue next week
 - Hearings:
 - February 16, 2012 @ USPTO
 - March 9, 2012 @ University of San Diego School of Law
 - Written comments: late January to late March
- Report due by June 16, 2012



Satellite Offices

- USPTO required to open 3 satellite offices in three years
- Initial office planned for Detroit; location secured and opening in Summer 2012
- Request for Comments on Additional USPTO Satellite Offices for the Nationwide Workforce Program, 76 Fed. Reg, 73601 (Nov. 29, 2011)
 - Written comments due by January 30, 2012



Examiner and APJ Hiring

Job Posting	Applicants	Referred	Interviewed	Offers Extended	Offers Accepted	On Board
Examiner Announcement 1 July 2011-Nov. 2011	3050	1065	531	288*	265*	96*
Examiner Announcement 2 Nov. 2011-Jan. 2012	3348	2326	In Progress	N/A	N/A	N/A
APJ Announcement 1 Aug. 2011 – Sept 2011	275	67	30	18	13	5
APJ Announcement 2 Sept 2011 – Oct 2011	193	55	23	8*	2*	0*
APJ Announcement 3 Oct 2011 – Nov 2011	113	37	In Progress	N/A	N/A	N/A

* Additional expected

Thank You

