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USPTO Initiates First Action Interview Pilot Program

Currently the examination of U.S. patent applications begins, on average, 25 months after filing. To address this problem, the United States Patent and Trademark Office (USPTO) has introduced a new First Action Interview Pilot Program, effective April 28 through November 1, 2008. Qualified applicants will be able to advance prosecution by conducting an interview with the Examiner prior to examination. In the interview, applicants will be able to highlight claim features and distinguish them from known prior art before the Examiner takes action on the case. The new program builds on the experiences in the accelerated examination program, but without the need for conducting a prior art search or filing an Accelerated Examination Support Document, which may have undesirable estoppel effects.

Qualification Under Program Limited

Applicants may qualify for the First Action Interview Pilot Program if: (i) they have a U.S. non-provisional application (1) that was filed on or before September 1, 2005, (2) that has not received a first office action on the merits, (3) is classified in Class 709 (Electrical Computers and Digital Processing Systems: Multicomputer Data Transferring), and (4) is assigned to art groups 2140-2150; or (ii) they have a U.S. non-provisional application (1) that was filed on or before November 1, 2006, (2) that has not received a first office action on merits, (3) is classified in Class 707 (Data Processing: Database and File Management or Data Structures), and (4) is assigned to art group 2160. Only non-provisional applications and PCT national stage applications qualify. In addition, the application must contain no more than three independent claims and 20 total claims, with no multiple dependent claims.

Program Process

Qualified applicants may request participation in the program by filing a request for a first action interview before the mailing date of the first office action. Once accepted to the program, applicants will receive a Pre-Interview Communication that contains the search results from the Examiner. Within one month, applicants will need to decide whether to schedule an interview or request that no interview be conducted. **Failure to promptly respond with either option will result in abandonment of the application.** After the interview, the examination process proceeds as normal prosecution.

Summary

The First Action Interview Pilot Program is advantageous for applicants seeking to advance an already delayed application. Applicants should immediately review their pending applications to determine whether they are able to take advantage of the program.

For additional information on this new program and to determine if your application qualifies, please contact one of the following Katten Muchin Rosenman LLP patent attorneys:

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