



Steps Taken to Improve Patent Quality

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Patent Rights

- Claims define scope of invention
- Claim interpretation is a question of law, not fact
- Claims are interpreted in view of:
 - ❖ specification
 - ❖ prosecution history
- Right is to exclude others from making, using, or selling the invention....



Third Party Activity

- After Pre-Grant Pub – 37 CFR 1.99
- Protest – 37 CFR 1.291
- After Grant:
 - ❖ Prior Art Citation - 37 CFR 1.501
 - ❖ Ex Parte Reexam – 37 CFR 1.510 (about 400/year)
 - ❖ Inter Partes Reexam – 37 CFR 1.915 (3 to date)
 - ❖ Invalidity as a defense in litigation



Quality as internally measured

Organization	FY-99 Error Rate	FY-00 Error Rate	FY-01 Error Rate
TC 2100	4.9%	4.5%	2.8%
TC 2600	4.3%	4.9%	4.1%
corps	5.5%	6.6%	5.4%



UNITED STATES
PATENT AND
TRADEMARK OFFICE

March 2000 Director Initiatives



Industry Outreach

- Identify additional sources of NPL
- Provide training opportunities for examiners
- Forum to discuss Business Method issues.



Industry Outreach

1. Customer Partnership

Since September, 2000, we have increased partnership participants from 10 to over 30 industry organizations.

Some of our partnership organizations include:

- ❖ the Information Technology Association of America (ITAA)
- ❖ Oracle
- ❖ the Software Industry Information Association (SIIA)
- ❖ BITS (formerly the Banking Industry Technology Secretariat)
- ❖ the Electronic Payments Association (NACHA)
- ❖ the Securities Industry Association (SIA)
- ❖ the American Council of Life Insurers (ACLI)
- ❖ the American Banking Association (ABA)
- ❖ IBM
- ❖ the NASDAQ Stock Exchange.



Industry Outreach

- **First joint partnership meeting held on March 1, 2001.**
 - ❖ **in attendance were approximately 60 representatives from the business and legal community, trade associations and academia.**

- **Second partnership meeting held on November 5, 2001.**



Industry Outreach

2. Roundtable Forum

A Roundtable forum was convened by the USPTO in July, 2000.

3. Industry Feedback

We continually work with Industry to obtain feedback on current prior art resources, and we actively solicit input on ways to expand resources to include other databases and information collections that we do not currently use in Class 705.

- ❖ We have addressed several industry organizations and received feedback.



Industry Outreach

Federal Register Notice Published

This Notice requests input from interested parties on additional sources of prior art that the USPTO could utilize to examine applications in Class 705. A full and complete listing of the current core databases for Class 705 is provided in the notice for comment, along with a detailed description of the required mandatory search for all applications examined in Class 705.



Quality

1. Enhance Technical Training

- We have worked aggressively to identify examiner educational needs in the business method areas, and we have solicited Industry to provide technical training on business method-related topics. Examples:
 - ❖ Fireman's Fund Insurance – The claims process
 - ❖ NACHA – Electronic payments
 - ❖ Mercata – Dynamic pricing in an e-commerce environment
 - ❖ American Bankers Association – Digital signatures
 - ❖ BITS – Emerging technologies and the financial services industry
 - ❖ The NASDAQ Stock Exchange – e-trading principles



Quality

1. Enhance Technical Training (cont.)

- We have communicated areas of training needs with partnership organizations.
- Expanded after-hours technical training program to include business related courses.



Quality

2. Revise Examination Guidelines

The Manual of Patent Examination Procedure guidelines for computer-related inventions (MPEP 2106) was revised in February, 2000 to reflect the *State Street Bank* and *AT&T v. Excel* court decisions. These revised guidelines are posted on the Business Methods web page.



Quality

3. Expand Current Search Activities

- Mandatory Search: Mandatory searching has been implemented in TC 2100 for all applications in Class 705. This mandatory searching includes a classified US patent document search and a text search of U.S. patent documents, foreign patents, and non-patent literature (NPL).
- Business methods Intranet web page developed
 - ❖ Recorded over 8,000 hits on this web site for the month of January, 2002.



Quality

- **Second Level Review**: A second-level review of all allowed applications in Class 705 is now required and is performed by the QAS's. The second level review ensures:
 - ❖ Search requirements are met
 - ❖ Accurate reasons for allowance are in every case
 - ❖ Scope of claims is appropriate



Results

Allowance Rate

- Class 705 FY'00 = 55%
- Class 705 FY'01 = 45%
 - ❖ Office-wide FY '01 = 69%
- Patents Issued FY '00 = 899
- Patents Issued FY '01 = 433