

**Description of the Quick Path Information Disclosure Statement (QPIDS) Pilot
And
Memorandum of Understanding between
The United States Patent and Trademark Office (USPTO) and
The Patent Office Professional Association (POPA)**

May 8, 2012

1. DESCRIPTION OF PILOT PROGRAM

The USPTO has determined to conduct a Quick Path Information Disclosure Statement Pilot Program (QPIDS). The QPIDS Pilot Program will eliminate the requirement for processing of a Request for Continued Examination (RCE) with an Information Disclosure Statement (IDS) filed after payment of the issue fee in order for the IDS to be considered by the examiner. There will be two paths for this pilot, depending on when the IDS is filed relative to the payment of an issue fee.

2. IDS filed prior to or on the same day as payment of the Issue Fee:

This portion of the QPIDS Pilot Program is available for utility, plant, reissue, and design applications.

If an IDS is filed in a utility, plant, or reissue application prior to or on the same day as the payment of the issue fee, the examiner will be authorized three hours of non-production time to review the IDS. For design applications, one hour of non-production time is authorized for review of the IDS. The processing and handling of the IDS will be unchanged from current practice, unless the examiner determines that the IDS necessitates reopening of prosecution.

If the examiner determines that the IDS necessitates reopening of prosecution, the examiner will complete a PTO-2300 (Notification Of Reopening Of Prosecution Due To Consideration Of An Information Disclosure Statement Filed After Mailing Of A Notice Of Allowance) to notify the applicant of the need to reopen prosecution. The examiner will post the form to the TC Director for signature. Posting of the form to the TC Director will stop the examiner's docket management clock, and notify the Office of Publications of the withdrawal. In that case, the disposal count will not be withdrawn from the examiner.

The application will be withdrawn from issue and placed on the examiner's Amendments tab. When the application is subsequently acted on, the examiner will be credited with additional appropriate credit as with any other amended application (0.25 counts for a final rejection and 0.50 counts for a disposal, or 0.75 counts for the disposal if no final rejection is done).

3. IDS filed after payment of the Issue Fee:

This portion of the QPIDS Pilot Program is available only for utility and reissue applications. Design applications are not eligible because 37 CFR 1.114 is not applicable to design applications. Plant applications are not eligible because ePetitions may not be filed in plant applications.

Under this pilot program, an IDS filed after the payment of the issue fee must be filed with the necessary statement under 37 CFR 1.97(e) and fee, a provisional RCE, authorization to charge the RCE fee, and a grantable e-petition and fee to withdraw the application from issue pursuant to 37 CFR 1.313(c). The examiner will be authorized three hours of non-production time to consider the IDS. The processing and handling of the IDS will be unchanged from current practice, unless the examiner determines that the IDS necessitates reopening of prosecution.

If the examiner determines that the IDS necessitates reopening of prosecution, the examiner will complete a PTO-2300 form to notify applicant that the RCE will be processed. After reopening of prosecution, the application will be placed on the examiner's Continuing New tab. As with current practice, no credit will be withdrawn due to the filing of the RCE and the examiner will receive production credit as appropriate for work on the RCE.

If processing of the provisional RCE is unnecessary, the examiner will mail a Corrected Notice of Allowability and the RCE fee will be refunded to applicant. If any amendments (e.g. under 37 CFR 1.312) are filed with the provisional RCE, the RCE will be automatically processed and placed on the examiner's Continuing New tab.

AGREEMENT

Preamble:

The USPTO and POPA agree to the following provisions based on the Agency's determination to implement the QPIDS pilot program as outlined above:

- 1. Timing and Duration:** This pilot is applicable to QPIDS requests filed on or before September 30, 2012 and the pilot will not start until the necessary information technology changes and processing procedures have been developed and implemented.
- 2. Sharing of Information:** Summary information collected for the evaluation of this program will be shared with POPA. Upon request, POPA will be provided with the full data for the pilot evaluation in electronically sortable format. Information may include: the amount of time claimed under this pilot; the number of applicants who elect to

participate; the disposition of the applications in the pilot; and the number of first action allowances after RCEs of applications in the pilot.

3. **Evaluation of Pilot:** The parties will begin meeting approximately one month prior to the end of the pilot to discuss the results to date. In addition, either party may request meetings during the course of the pilot to discuss issues relating to the pilot.
4. **Dissemination of Information on Pilot to Examiners:** Management will send information on this pilot via e-mail to all examiners approximately one week prior to the beginning of the pilot. The information will consist of a description of the pilot, including instructions for processing IDSs under the pilot, and the time code to be used to record the non-production time authorized under the pilot.
5. **Modification or Extension of Pilot or Full Implementation of Change:** Management may determine to extend or modify the pilot, or to adopt the pilot as ongoing agency practice. Prior to implementing a change by extending, modifying, or adopting the pilot, the parties will meet to discuss the proposed changes. The parties will seek to resolve all issues informally. If all issues are not resolved informally, management will provide notice to the union of its intent to move forward with the change. POPA may request negotiations over the change. If the union requests negotiations, management will negotiate over the change, to the extent required by law, and will delay implementation of the change until the completion of bargaining (including mediation and impasse proceedings).

Signatures



Andrew Faile
Deputy Commissioner for Patents
U.S. Patent and Trademark Office



Robert D. Budens
President
Patent Office Professional Association

Date: 5/8/12

Date: 8 May 2012