

Client Alert Intellectual Property

What Matters - USPTO Will Implement Prioritized Examination Track (Track 1) Option

Effective May 4, 2011, the USPTO will be implementing a “Prioritized Examination Track (Track 1)” option for patent filers.

Requests for the “Track 1” prioritized examination will be accepted upon payment of a \$4,000 fee (as of now, there is no reduced payment option based on small entity status). A prioritized application will be “accorded special status and placed on the examiner’s special docket throughout its entire course of prosecution before the examiner until a final disposition is reached.” (Federal Register). The aim is to reach a final disposition within 12 months of filing.

To qualify for Track 1 prioritized examination, the application: (1) must be a new original nonprovisional utility or plant patent application; (2) must be filed electronically; (3) must be “complete” - that is, include the oath or declaration and all necessary fees; and (4) must contain no more than 30 total claims of which no more than 4 are independent.

The number of Track 1 requests accepted will initially be limited to a maximum of 10,000 applications from May 4, 2011 through September 30, 2011. At that point the USPTO will revisit this limit to evaluate whether adjustments are needed for future years.

A copy of the full Rule from the Federal Register is available here:

<http://edocket.access.gpo.gov/2011/pdf/2011-7807.pdf>

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