



[3510-16-P]

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO-P-2012-0025]

**Extension of the Full First Action Interview Pilot Program and Request for
Comments**

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice and Request for Comments.

SUMMARY: The United States Patent and Trademark Office (Office) is extending the First Action Interview (FAI) Pilot Program while completing a comprehensive review of the program, deciding what, if any, adjustments should be made to the program, and whether the program should be extended further or made permanent. The program is intended to expedite disposition of an application by enhancing communication between an applicant and an examiner at the beginning of the examination process. Specifically, the program allows an applicant to conduct an interview with an examiner prior to the issuance of an Office action, but after receiving the examiner's search results and initially

identified issues. During its review, the Office will consider feedback from both internal and external stakeholders. Accordingly, in addition to announcing the extension of the program, the Office is requesting comments on the program.

DATES: COMMENT DEADLINE DATE: Written comments must be received on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]. No public hearing will be held.

EXTENSION DATE: The Office has extended the FAI Pilot Program until August 16, 2012. Notice of this extension was placed on the USPTO's Web site just after expiration of the prior extension.

ADDRESSES: Comments should be sent by electronic mail message over the Internet addressed to: first.action.interview@uspto.gov. Comments may also be submitted by postal mail addressed to: United States Patent and Trademark Office, Mail Stop Comments – Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Joseph F. Weiss, Jr. Although comments may be submitted by postal mail, the Office prefers to receive comments by electronic mail message over the Internet in order to facilitate posting on the Office's Internet Web site.

The comments will be available for public inspection at the Office of the Commissioner for Patents, located at Madison Building East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia. Comments also will be available for viewing via the Office's Internet Web site (<http://www.uspto.gov>). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number should not be included in the comments.

FOR FURTHER INFORMATION: Contact Joseph F. Weiss, Jr., Legal Advisor (telephone (571) 272-7759; e-mail joseph.weiss@uspto.gov), of the Office of the Deputy Commissioner for Patent Examination Policy. Alternatively, mail may be addressed to Mr. Weiss at Commissioner for Patents, Attn.: FFAIPP, P.O. Box 1450, Alexandria, VA, 22313-1450.

SUPPLEMENTARY INFORMATION:

Background: The Office published a notice implementing the Full FAI Pilot Program in 2011, which expanded the eligibility criteria to all utility applications of the previous Enhanced FAI Pilot Program. See Full First Action Interview Pilot Program, 1367 Off. Gaz. Pat. Office 42 (June 7, 2011). See also Enhanced First Action Interview Pilot Program, 1347 Off. Gaz. Pat. Office 173 (October 20, 2009). Under the program, participants are permitted to conduct an interview with the examiner after reviewing a

Pre-Interview Communication providing the results of a prior art search conducted by the examiner.

Since the date the pilot was expanded, the Office has received over 2,100 requests to participate in the program. Of the applications that have been taken up for examination since the expansion, the Office has allowed over 35% on first action. Participants in the program have experienced several benefits including: (1) effectively advancing prosecution of an application before issuance of an Office action; (2) enhanced interaction between the applicant and the examiner before issuance of an Office action; (3) resolving patentability issues one-on-one with the examiner at the beginning of the prosecution process, rather than after a first Office action; and (4) expedited allowance of an application, relative to standard examination, due to the program's enhanced communication and shorter time periods for response.

Extension: The Office is extending the FAI Pilot Program until August 16, 2012, while it completes its evaluation of the program. During this time, the Office will be gathering and analyzing relevant information, including comments from external and internal participants in order to determine what, if any, adjustments should be made to the program and whether the program will become permanent or be further extended.

Request for Comments: The Office is seeking comments on the FAI Pilot Program. The Office is interested in receiving feedback as to whether the program is meeting the needs of its applicants, and whether any aspects of the program cause applicants to not

participate. The following questions have been provided to help elicit the types of information the Office is interested in receiving. However, the list of questions below is not exhaustive and responses do not need to be limited to only information that answers these questions.

- (1) Based on your use of the program, did you experience the benefits of the FAI program set out above? Did you experience additional benefits?
- (2) Did the Pre-Interview Communication provide you with sufficient, meaningful information to conduct an effective interview?
- (3) How productive is the interview before first action in advancing prosecution?
- (4) How would you rate the extent/utility of the information provided in the Pre-Interview Communication and subsequent Office action?
- (5) What changes would you make to the FAI program? How would these changes improve the program?
- (6) For any application in which you decided that the FAI program would not meet your needs, what aspect of the program made the program unsuitable for the application?

(7) Do you consider the FAI program to be more efficient (or otherwise beneficial) as compared to traditional prosecution?

(8) Should the Office make the FAI program permanent?

Date: June 29, 2012

David J. Kappos
Under Secretary of Commerce for Intellectual Property and
Director of the United States Patent and Trademark Office

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