



Greenblum & Bernstein, P.L.C.
CLIENT ADVISORY
Recent Changes in Rules and Procedures

May 14, 2012

Quick Path Information Disclosure Statement (QPIDS) Pilot Program

Dear Clients:

The U.S. Patent and Trademark Office has recently announced a pilot program to enable an examiner to consider an IDS filed after payment of the issue fee without necessarily requiring reopening of prosecution. The goal of the program is to reduce the number of unnecessary RCEs that are filed in order to obtain consideration of IDS material after the issue fee has been paid and to reduce the costs and prosecution delays associated therewith.

The pilot program is currently scheduled to be effective from May 16, 2012 through September 30, 2012, but may be extended (with or without modification). The pilot program applies to utility or reissue applications, but not to design or plant applications.

In accordance with the features of the pilot program, IDS submissions that comply with the requirements of the pilot program will be considered by the Examiner before determining whether prosecution should be reopened and accordingly, prosecution will only be reopened if the Examiner determines that reopening prosecution is necessary in order to address an item of information cited in the IDS. In those cases where the items of information cited in the IDS do not require prosecution to be reopened, the application will proceed to issue without requiring an RCE.

Requirements of the QPIDS pilot program

1. A transmittal form that designates the submission as a "QPIDS submission".
2. An IDS including a timeliness statement in accordance with 37 CFR 1.97 (e) and the IDS fee. The US PTO is *sua sponte* waiving the requirements of 37 CFR 1.97(d) regarding filing of an IDS after payment of the issue fee, but is not waiving the requirements under 37 CFR 1.97 (e). If reopening of prosecution is required the IDS fee will be refunded.
3. A web based ePetition to withdraw the application from issue together with the petition fee.
4. An RCE, which will be considered a "conditional" RCE, together with the appropriate fee. However, the RCE will only be processed if the Examiner determines that at least one item of information in the IDS requires reopening of prosecution. Otherwise the RCE fee will be refunded.
5. All papers associated with the pilot program must be filed by the electronic filing system and all fees must be paid by authorization to charge a deposit account.

The required petition to withdraw the application from issue will be

granted immediately upon submission. The IDS submission will be placed on the Examiner's "expedited" docket for consideration. If the Examiner determines that no items of information cited in the IDS necessitate reopening of prosecution, the Examiner will issue a corrected notice of allowability indicating consideration of the IDS and the cited information will be printed on the patent. In this situation the RCE will not be processed and the RCE fee will be automatically returned, but the IDS and petition fees will not be returned.

If, on the other hand, the Examiner determines that any item of information in the IDS necessitates reopening of prosecution, the RCE will be processed and placed on the Examiner's docket and Applicants will be notified that prosecution has been reopened. In this case, the RCE will be accorded a filing date as of the date of the QPIDS submission but the IDS fee will be automatically returned. However the petition fee and the RCE fee will not be returned.

A noncompliant QPIDS submission that otherwise complies with the requirements of 37 CFR 1.114 will be considered to be an RCE. Applicants wishing to take advantage of this pilot program are reminded that in view of the shortened processing time between payment of the issue fee and issuance of a patent, such submissions should be made as soon as possible.

Should you have any questions or comments regarding this matter, please do not hesitate to contact us.

Best regards,

GREENBLUM & BERNSTEIN, P.L.C.

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