Patent Public Advisory Committee
Quarterly Meeting

FY17 End of Year Stats Review

Andrew Faile
Deputy Commissioner for Patent Operations

November 9, 2017
Key Points of Interest

• FY17 4ᵗʰ Q Statistics
  – First Action pendency was 16.3 months
    • First action pendency goal was 14.8
  – Total Pendency was 24.2 months
    • Total pendency goal was 24.8

• Attrition rate continues to be low (4.1%) 

• Filings were lower than expected
Analysis and Discussion
FY 2017 Pendency

- First action pendency has been negatively impacted by:
  - Hiring freeze
  - Reduced overtime
  - Additional time adjustments due to the new classification system (CPC)
FY 2017 Filing Trends

• Serialized filings were up 0.3%
  – In line with both model forecast and recent trends
• RCE filings were down 3.8%
  – Decrease was expected
  – Less rework is positive
  – RCE drop causes total filings to be down 1%
• Design filings were up 6.1%
  – Slightly lower than expected
• Provisional filings were down 0.3%
## RCE Filing Trends

<table>
<thead>
<tr>
<th>Tech Center</th>
<th>FY16 Q4</th>
<th>FY17 Q4</th>
<th>Change</th>
</tr>
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<tbody>
<tr>
<td>1600</td>
<td>16607</td>
<td>16623</td>
<td>.1%</td>
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<tr>
<td>1700</td>
<td>24368</td>
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<tr>
<td>3600</td>
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<tr>
<td>3700</td>
<td>29088</td>
<td>28618</td>
<td>-1.6%</td>
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Attrition

• FY 2017 attrition rate was 4.1%
• Highest attrition rate continues to be among new examiners
  – 25% for those under one year of service
• Falls to 5% and under by the third year of service
• Under 1% attrition rate for those with 10+ year of service
Variations from Model Estimates

• Lower than expected serial filings
• Lower than expected RCE filings
• Lower overtime usage
Summary of Alice Impacts

- Alice impacts were limited to the Business Methods area
- RCE filings first declined then spiked and have since slowly dropped back to pre-Alice levels
- Allowance rate dropped substantially, has since edged upward to about half the pre-Alice level
- Temporary spike in re-openings following PTAB reversals
- Decrease in serialized filings (from ~1300/month pre-Alice to ~975/month recently)
Track One

• Pendency continues to be extremely low
  – Average time from Filing to Petition grant: 1.4 months
  – Average time from petition grant to first action: 2.1 months
  – Average time from petition grant to final disposition: 6.5 months

• Annual cap reached for first time in FY 2016

• FY17 filings slowed resulting in the cap not being reached
Patent Term Adjustment (PTA)

• On average, 56% of first actions were being completed later than 14 months from filing
  – Lowest compliance category
• Performance in the 4/4/4 categories has historically been fairly good and continues to be so currently
  Through FY17 Quarter 4, the Corps averages are:
  – Amendments 6.7%
  – Appeal decisions 3.5%
  – Issues 1.5%
• Currently approximately 17% of issues exceed 36 months total PTA pendency
  – Will decline further along with overall average pendency
PTAB Results

• Overall affirmance rate of 56% for FY17
  – Additional 12% affirmed-in-part
  – Tech center rates range from 43% (3700) to 68% (1600)
Supporting Data
Historical PTA Results – First Actions

First Actions - % over 14 Months
Historical PTA Results – Amendments

Responses to Amendments - % Over 4 Months
Historical PTA Results – PTAB

Actions after Appeal Decisions - % Over 4 Months

- % Over 4 Months
Historical PTA Results – Issues

Issues - % Over 4 Months

Issues after Payment of Issue Fee - % over 4 Months
Historical PTA Results – Total Pendency

Issues - % over 36 Months
Unexamined Patent Application Inventory
FY 2011 – FY 2017 Q4

526,579 Unexamined Applications as of September 30, 2017
RCE Inventory
FY 2010 – FY 2017 Q4

22,473 RCE Applications as of September 30, 2017
First Action Pendency and Total Pendency
FY 2011 – FY 2017 Q4

Total Pendency: 24.2 months.
First Action Pendency: 16.3 months.
Pendency from RCE Filing to Next Action
12-Month Average UPR Examiner Attrition Rate
Less Transfers and Retirees and Overall Attrition Rate
FY 2001 – FY 2017 Q4

12-Month Attrition Rate Less Transfers and Retirees 3%
12-Month Overall Attrition Rate: 4.12%
Monthly Serialized Filings FY 2013 – FY 2017

Note: RCE filings are not included. There is some delay (up to several months) between filing and assignment of classification data, so recent months may under-count class-based filings.
Monthly RCE Filings FY 2013 – FY 2017

Graph showing applications over time with markers for FITF Implemented, Alice Decision, and One Year Post FITF.
Monthly Allowance Rate

- UPR Allowance, Including RCEs
- Biologics and Diagnostic Methods
- Allowance Rate for Class 705
- Amusement/Education
Reopening Rates Following Reversals

Business Methods - Reopening after Reversal

Year and Month of Action Following Reversal
## Track One Filings

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<tr>
<th>Petitions Received</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
<th>March</th>
<th>April</th>
<th>May</th>
<th>June</th>
<th>July</th>
<th>August</th>
<th>September</th>
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Design Filings
FY 2009 – FY 2017 Q4

43,272 applications received in FY17 Q4
Design Unexamined Application Inventory
FY 2011 – FY 2017 Q4

FY 2017 Q4 is 42,537
Design First Action Pendency and Total Pendency
FY 2011 – FY 2017 Q4

Design Total Pendency as of September 30, 2017: 19 months.

First Action Pendency as of September 30, 2017: 13.2 months.
FY17 Appeal Results by Tech Center

% AFFIRMED FY17 Q4 BY TECH CENTER
Questions and Comments

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