Master Review Form and Quality Metrics
MRF Program Goals

• To create a **single, comprehensive** tool (called the Master Review Form) that can be used by all areas of the Office to **consistently** review final work product
  – Common review standard
  – Common data points

• To better collect information on the **clarity and correctness** of Office Actions

• To collect review results into a **single data warehouse** for more **robust analysis**
  – Increased precision in metrics
  – More granular levels of analyses to detect anomalies, inconsistencies, and hot spots
Looking Forward

The Master Review Form’s single data warehouse facilitates:

• Better quality metrics
• Case studies without the need for ad hoc reviews
• Rapid measurement of the impact of training, incentives, or other quality programs on our work product
• Quality monitoring tools, such as dashboards
Compliance and Clarity

• Master Review Form (MRF) and Integrated Quality System (IQS)
• 11,000 reviews completed to date
• 18,000 targeted for FY17
• Correctness targets for FY17 were established based on FY16 reviews
  – Statutory Compliance reviews started midyear FY16
• MRF data being analyzed for development of both correctness and clarity goals for FY18
Compliance: 35 USC §102

35 USC 102

MRF Reviews 10/1/16 - 4/26/17

NON-FINAL  FINAL  ALLOWANCE  TOTAL  GOAL

92.6%  95.0%  94.0%  96.4%  96.0%  90.0%
Compliance: 35 USC §103

35 USC 103

MRF Reviews 10/1/16 – 4/26/17

- Non-Final: 90.1%
- Final: 89.0%
- Allowance: 97.6%
- Total: 93.0%
- Goal: 88.0%
Compliance: 35 USC §101

35 USC 101

MRF Reviews 10/1/16 – 4/26/17

NON-FINAL FINAL ALLOWANCE TOTAL GOAL

97.3% 97.5% 96.4% 98.0% 93.0%
Compliance: 35 USC §112

MRF Reviews 10/1/16 – 4/26/17

35 USC 112

- 90.5%
- 90.3%
- 91.7%
- 92.0%
- 87.0%

NON-FINAL
FINAL
ALLOWANCE
TOTAL
GOAL
Compliance by Discipline

<table>
<thead>
<tr>
<th>35 USC §102</th>
<th>35 USC §103</th>
</tr>
</thead>
<tbody>
<tr>
<td>(Goal: 90-95%)</td>
<td>(Goal: 88-93%)</td>
</tr>
<tr>
<td>Chemical</td>
<td>Chemical</td>
</tr>
<tr>
<td>95.7%</td>
<td>93.8%</td>
</tr>
<tr>
<td>Electrical</td>
<td>Electrical</td>
</tr>
<tr>
<td>92.4%</td>
<td>90.3%</td>
</tr>
<tr>
<td>Mechanical</td>
<td>Mechanical</td>
</tr>
<tr>
<td>94.5%</td>
<td>91.5%</td>
</tr>
</tbody>
</table>
Compliance by Discipline

35 USC §101
(Goal: 93-98%)

- Chemical: 98.9%
- Electrical: 94.1%
- Mechanical: 98.2%

35 USC §112
(Goal: 87-92%)

- Chemical: 89.6%
- Electrical: 92.9%
- Mechanical: 89.4%
Alignment with Customer Perceptions

- Not an apples-to-apples comparison, but direction of quality should track

**Perceptions vs Reality**

<table>
<thead>
<tr>
<th>Discipline</th>
<th>% Customers Rating Quality as Good or Excellent</th>
<th>% Cases in Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chemical</td>
<td>59%</td>
<td>83%</td>
</tr>
<tr>
<td>Electrical</td>
<td>44%</td>
<td>76%</td>
</tr>
<tr>
<td>Mechanical</td>
<td>56%</td>
<td>81%</td>
</tr>
</tbody>
</table>

**Perceptions vs Reality Gap**

- % Customers Rating Quality as Good or Excellent
- % Cases in Compliance

**EOY15**

- 47% of customers rated quality as good or excellent
- 95% of cases were in compliance

**Current**

- 50% of customers rated quality as good or excellent
- 80% of cases were in compliance

Today: By Discipline

Today vs EOY15
Current Activities

• Reporting
  – Internal Dashboard
  – Coming soon: Publishing statistics on USPTO.gov

• Exploratory Analysis
  – example if clear, 3X more likely to be correct
  – example examiner and prosecution characteristics vs. compliance

• Supporting Corps-wide studies and evaluations
  – Examination Time Analysis, Clarity Pilot, etc.

• Supporting TC-specific quality initiatives
  – Action plans and own exploratory analysis
Clarity of the Record Pilot
Pilot Goals

- Identify Examiner Best Practices
- Find Correct Balance for Appropriate Recordation
- Use Data/Feedback to Assist Other Programs
- Enhance Clarity of Prosecution Record
Areas of Focus

• More detailed interview summaries
• More precise reasons for allowance
• Pre-search interview – Examiner’s option
• Enhanced documentation of 7 areas of claim interpretation:
  – Special definitions of claim terms
  – Functional language
  – Intended use or result (preamble and body of claim)
  – "Means-plus-function" (35 U.S.C. §112(f))
  – Optional language
  – Non-functional descriptive material
  – Computer-implemented functions that invoke 35 U.S.C. §112(f) ("specialized" or "non-specialized")
Clarity of the Record Training: Improving Clarity and Reasoning in Office Actions

ICR Training
Improving Clarity and Reasoning – ICR Training Program Goals

• To identify particular areas of prosecution that would benefit from increased clarity of the record and develop training

• To enhance all training to include tips and techniques for enhancing the clarity of the record as an integral part of ongoing substantive training
## ICR Training Courses

<table>
<thead>
<tr>
<th>Course</th>
<th>Description</th>
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<tbody>
<tr>
<td>35 U.S.C. 112(f): Identifying Limitations that Invoke § 112(f)</td>
<td></td>
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<tr>
<td>35 U.S.C. 112(f): Making the Record Clear</td>
<td></td>
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<tr>
<td>35 U.S.C. 112(f): Broadest Reasonable Interpretation and Definiteness of § 112(f) Limitations</td>
<td></td>
</tr>
<tr>
<td>Evaluating Limitations in Software-Related Claims for Definiteness under</td>
<td></td>
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<tr>
<td>Broarest Reasonable Interpretation (BRI) and the Plain Meaning of Claim Terms</td>
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</tr>
<tr>
<td>Examining Functional Claim Limitations: Focus on Computer/Software-related Claims</td>
<td></td>
</tr>
<tr>
<td>Examining Claims for Compliance with 35 U.S.C. 112(a): Part I Written Description</td>
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<tr>
<td>Examining Claims for Compliance with 35 U.S.C. 112(a): Part II – Enablement</td>
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<tr>
<td>35 U.S.C. 112(a): Written Description Workshop</td>
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<tr>
<td>§ 112(b): Enhancing Clarity By Ensuring That Claims Are Definite Under 35 U.S.C. 112(b)</td>
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<tr>
<td>2014 Interim Guidance on Patent Subject Matter Eligibility</td>
<td></td>
</tr>
<tr>
<td>Abstract Idea Example Workshops I &amp; II</td>
<td></td>
</tr>
<tr>
<td>Enhancing Clarity By Ensuring Clear Reasoning of Allowance Under C.F.R. 1.104(e) and MPEP 1302.14</td>
<td></td>
</tr>
<tr>
<td>35 U.S.C. 101: Subject Matter Eligibility Workshop III: Formulating a Rejection and Evaluating the Applicant’s Response</td>
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</tbody>
</table>

**Advanced Legal Training Part I:** Understanding Case Law and the Federal Court System

**Advanced Legal Training Part II:** How to Analyze and Respond to Case Law Related Arguments
Topic Submission for Case Studies
Topic Submissions - Background

• Case studies used internally on an *ad hoc* basis to study particular issues

• Federal Register Notice on Topic Submissions
  – USPTO invited stakeholders to submit patent quality-related topics for study
  – Submissions were accepted through December ‘15 through February ‘16
# Topics Selected for Case Studies

<table>
<thead>
<tr>
<th>Patent Quality Topic</th>
<th>Project Status</th>
</tr>
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<tbody>
<tr>
<td>2. Consistency of application of 35 U.S.C. 101 across Art Units/Technology Centers</td>
<td>In-Progress</td>
</tr>
<tr>
<td>3. Use of compact prosecution when making 35 U.S.C. 101 rejections</td>
<td>Being Finalized</td>
</tr>
<tr>
<td>5. Enforcement of 35 U.S.C. 112(a) written description in continuing applications</td>
<td>In-Progress</td>
</tr>
</tbody>
</table>
Post Grant Outcomes
Post Grant Outcomes Program

• This program is to develop a process for providing post grant outcomes from various sources, such as the Federal Circuit and Patent Trial and Appeal Board (PTAB), to the examiner of record and the examiners of related applications.

• Post Grant Outcomes Pilot: April-August, 2016
  – Identify those patents being challenged at the PTAB under the AIA trials that have pending related applications in the Patent Corps
  – Provide the examiners of those pending related applications access to the contents of the AIA trial
In the Office action of the child case, did the examiner refer to any of the references cited in the AIA trial petition of the parent case?

- No: 56%
- Yes: 44%

Based on 323 Survey Responses
Post-Prosecution Pilot (P3)
Post-Prosecution Pilot (P3) Overview

• Retains popular features of the Pre-appeal Brief Conference Pilot and AFCP 2.0 programs:
  – Consideration of 5-pages of arguments
  – Consideration of non-broadening claim amendments
  – Consideration by a panel

• Adds requested features:
  – Presentation of arguments to a panel of examiners
  – Explanation of the panel’s recommendation in a written decision after the panel confers
Pre-Search Functionality and Search Enhancement Pilot
Pre-Search Functionality

Objective: Created to make a pre-examination search available automatically available in every application

– Supplements the examiner search
Examination Search Enhancement

Public Feedback
- Identify the best prior art early in prosecution
- Provide early notice to applicant

Pilot Being Designed to Test
- Best avenue for providing prior art
- Overall benefits to the impact on examination quality
- Benefits to patent pendency
Questions and Comments

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