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## USPTO Begins Fast-Track Patent Processing On May 4, 2011

Another option for rapid patent examination will soon be available. The U.S. Patent and Trademark Office (USPTO) will begin accepting requests for prioritized (“Fast-Track”) examination of patent applications on May 4, 2011. Fast-Track examination will provide “final disposition” of a patent application within 12 months of prioritized status being granted. It currently takes an average of three years (or much longer) to process a patent application.

Final disposition includes any of the following:

- mailing of notice of allowance
- mailing of final office action
- filing of notice of appeal
- declaration of interference
- filing of request for continued examination
- abandonment of application

*Note:* An extension of time filed by the applicant during prosecution will terminate prioritized status.

To be eligible for Fast-Track examination, a patent applicant must meet the following requirements.

1. The application must be complete\* and a new, original\*\* utility or plant application.
2. The application can include no more than

four independent claims, and no more than 30 total claims.

3. A request for prioritized examination must be filed with the application.
4. A \$4,000 prioritized exam fee + other standard filing fees must be paid upon filing.
5. The USPTO has limited the number of Fast-Track exams to 10,000 for FY2011, which ends September 30, 2011.

**Comment**

Prioritized examination is another option for patent applicants seeking to avoid the examination backlog at the USPTO. Note that prioritized examination is different than the existing accelerated examination process, which remains an option for patent applicants.

Some key differences between prioritized examination and accelerated examination are provided in the table below.

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*\* A “complete” application must meet 37 CFR §1.51(b) requirements including an oath/declaration and any excess claim fees.*

*\*\* An “original” application includes continuation and/or divisional applications. Prioritized examination does not apply to international, design, reissue, or provisional applications, or reexam proceedings.*

Prioritized Examination	Accelerated Examination
4 independent claims, 30 claim limit	3 independent claims, 20 claim limit
\$4,000 prioritized exam fee + standard filing fees	Standard filing fees
No pre-examination search required	Requires applicant to perform a pre-examination search
No examination support document required	Requires applicant to submit an examination support document



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