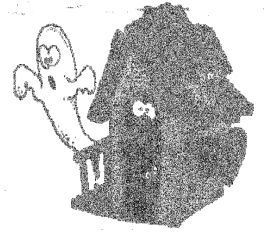




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“Tip of the Month”

New Accelerated Patent Examination Procedure

The U.S. Patent and Trademark Office (“USPTO”) has instituted a new accelerated examination (“AE”) procedure for patent applications. The new procedure promises to give the applicant a final determination of patentability within 12 months of filing. Over the past few years, the length of time it takes to get a patent or a final refusal (i.e. “pendency”) has increased to the point that it can take two to three years just to receive the first examination from the USPTO. The AE procedure is faster because it requires the applicant to perform a detailed patentability search and submit a patentability report, which saves a great deal of time for the patent examiner. AE is available for utility and design patent applications, but not plant or provisional applications.

If you need a patent fast, here are the overall requirements:

1. Submit a Petition to Make Special under the AE program, and pay the required fee. In most cases, the fee is \$130.
2. File the application electronically using the USPTO Electronic Filing System (“EFS”).
3. Make sure the application is complete as filed, with no missing parts.
4. File three or fewer independent claims and no more than 20 claims total.
5. Make sure that the claims are drawn to a single invention, or, if the examiner could find more than one invention, agree to limit the application to one invention without argument.
6. Agree to have interviews with the examiner within two weeks of any request to discuss any outstanding issues, instead of relying solely on written Office actions.
7. Agree to one-month response deadlines for Office communications, instead of the standard three months, and that extensions of time will not be available.
8. Conduct a detailed patentability search including U.S. classifications, U.S. and foreign patent key word search, and technical journal key word search. The international patent and technical journal search must be done on fee-based commercial databases, or at the USPTO Universal Public Workstation in Alexandria, Virginia.
9. Submit an Information Disclosure Statement for the references found and describe where any elements or limitations in the claims are found in the references.
10. Provide an AE support document that describes where each claim element or limitation is supported in the application description, and how each claim is patentable over the prior art.

The result is that AE applications will cost perhaps twice as much as non-AE applications to prepare. However, it may be the only way to obtain patent protection quickly.

If you think an accelerated examination is right for your patent application, please give us a call at 668-1971 or contact us through the Internet at mailbox@biz-patlaw.com.

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