

Accelerating a U.S. Patent Application

As the chart below shows, the U.S. Patent and Trademark Office (“PTO”) provides several programs by which a patent application may be accelerated through the examination process. The PTO’s goal for some of these accelerated applications is to reach a final disposition within 12 months. For more information, see the article “[Accelerating Your Patent Application](#).”

Typically, patent applications at the PTO are examined on a first-come first-served basis, and the patent process takes up to three years on average, according to recent data. This timetable may conflict with the applicant’s needs.

These programs allow a patent application to be “advanced out of turn.” In other words, these programs allow an application to jump to the front of the line.

Some of the PTO’s accelerated programs impose additional costs on the applicant, such as additional fees, or restrictions on the application itself. For example, some options require a petition to “make special,” and some require a supporting statement of how the application meets the requirements for advancement.

Several programs have additional requirements and/or limitations (*e.g.*, application filing dates; number of claims, etc.). Some are permanent programs, while others are subject to limitation based on date, and/or on the total number of applications processed.

The decision whether to accelerate patent prosecution should balance the costs and benefits of doing so. The chart may be a useful place to start.

The PTO’s programs for accelerating a patent application are subject to change. For more detail on the requirements and limitations of each program, please contact the author, attorney Tom Tuytschaevers, at ttuytschaevers@sunsteinlaw.com

These programs are subject to change. The information below was current as of February 1, 2012.

<u>Basis</u>	<u>Qualifications</u>	<u>Requirements</u>	<u>12 Month Disposition</u>	<u>USPTO Fee</u>	<u>Expiration</u>
Age of applicant	Age 65 or older	Petition accompanied by evidence of applicant's age.	No	N/A	N/A
Health of applicant	State of health of applicant is such that he or she might not be able to assist in prosecution if prosecution were to run its normal course.	Petition accompanied by evidence of applicant's state of health.	No	N/A	N/A
Environmental quality	Invention will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil.	Petition and supporting statement.	Yes	N/A	N/A
Development or conservation of energy resources	Invention will materially contribute to (a) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources.	Petition and supporting statement.	Yes	N/A	N/A
Terrorism	Invention relates to technologies for countering terrorism.	Petition and supporting statement.	Yes	N/A	N/A

<u>Basis</u>	<u>Qualifications</u>	<u>Requirements</u>	<u>12 Month Disposition</u>	<u>USPTO Fee</u>	<u>Expiration</u>
Accelerated Examination Program	Applicant must perform prior art search and analysis and supply report to USPTO. See Manual of Patent Examining Procedure, §708.02(a). Number of claims in application is limited.	Petition and “Complete Examination Support Document” are required.	Yes	\$130 {with some exceptions}	N/A
Green Technology Pilot Program	Invention relates to “clean technologies,” such as energy conservation; development of renewable energy resources; reduction in greenhouse gas emissions, etc. Number of claims in application is limited.	Petition	No	N/A	March 30, 2012 or 3,500 applications, whichever comes first.
“Track I” of Three Track Proposal	A request for prioritized examination may be submitted with any original utility or plant application (including divisional and continuation applications) filed on or after September 26, 2011. Number of claims in application is limited.	Petition upon filing application	Yes	\$4,800 {\$2,400 for “small entities”} – in addition to the normal filing fees.	Limited to first 10,000 applications per fiscal year.
Patent Prosecution Highway	A corresponding application in one of certain other jurisdictions has received favorable treatment.	Request	No	N/A	N/A