

REPORT

USPTO ELIMINATES PPH PETITION FEE

May 24, 2010

On May 20, the U.S. Patent and Trademark Office (USPTO) announced that a petition fee will no longer be charged for participation in Patent Prosecution Highway (PPH) programs. Until now, the USPTO charged a \$130 petition fee with each request for a U.S. patent application to participate in a PPH program. By eliminating the petition fee, the USPTO hopes to encourage a greater number of applicants to take advantage of the various PPH programs.

Currently, the USPTO has PPH programs with Patent Offices in Australia, Canada, Denmark, Finland, Germany, Japan, Korea, Singapore, and the United Kingdom and with the European Patent Office. Additionally, a PPH Program began in January 2010, between the United States, Japanese, and European Patent Offices with respect to PCT applications. Under the respective PPH programs, if an application filed in an Office of First Filing receives an indication that at least one claim is patentable, a corresponding application with corresponding claims filed in an Office of Second Filing may be advanced out of turn for examination.

The USPTO reports that PPH applications take significantly less time, on average, to examine and prosecute than non-PPH applications. Further, the average USPTO allowance rate for such applications is higher than for non-PPH applications. The elimination of the government petition fee can substantially reduce the cost of a PPH filing, although the need to conform the U.S. claims to allowed foreign claims can result in estoppels on claim scope.

Please let us know if you desire any additional information on any of the PPH programs, or if you have any questions about other ways to expedite examination of patent applications.

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This Special Report is intended to provide information about legal issues of current interest. It is not intended as legal advice and does not constitute an opinion of Oloff & Berridge, PLC. Readers should seek the advice of professional counsel before acting upon any of the information contained herein.

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