USPTO DESIGN DAY 2008:
Designing Tomorrow

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marketable
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Accelerated Examination

And

Expedited Examination

Robert M. Spear
Design Patent Specialist,
TC2900 USPTO
• Accelerated examination applications are special cases under 37 CFR 1.102(d)
• Granted by petition

• Expedited examination applications are special cases under 37 CFR 1.155
• Granted by request
• Special examining procedure, see MPEP 708.02.VIII. and 708.02(a)

• Design applications must also comply with 37 CFR 1.151, 152, 153 & 154

• Objective: to arrive at final disposition within 12 months of filing
MPEP 708.02(a)F.: The 12-month goal is achieved if…

• Notice of Allowability
• Final Office action
• Abandonment

…Final disposition may occur after 12 months.
Petition Requirements

1. Petition to make special under accelerated examination program
2. Fee (37 CFR 1.17(h))
3. Non-reissue utility or design case
4. Filed electronically
5. Complete application under 37 CFR 1.51
6. Willing to elect without traverse
7. Willing to conduct phone interview
8. State that pre-examination search was done
9. Include accelerated examination support document.
Pre-examination Search (MPEP 8.02(a)(I.H.))

- US Patents & patent application publications
- Foreign publications
- Non-patent literature
- Directed to the claimed invention
- Encompass all features of the claims
Pre-examination Support Document

1. IDS citing references most closely related
2. Identify all limitations disclosed in references
3. Detailed explanation of how each claim is patentable over the reference
4. Concise statement of the utility of the invention (except in design cases)
5. Showing where each limitation finds support under 35 USC 112/1st paragraph
6. ID references disqualified under 35 USC 103(c)
• If the application is not complete, petition will be denied (MPEP 708.02(a)VIII.C.)

• If the application is deficient, petition will be dismissed; applicant has a single, 30-day opportunity to perfect petition
....All for the low price of $130.00 (4/14/08)
Expedited Examination =

*Rocket Docket*
“…Intended to fulfill a particular need by affording rapid design patent protection that may be especially important where marketplace conditions are such that new designs on articles are typically in vogue for limited periods of time.”
• 37 CFR 1.155 & MPEP 1504.30

• $900.00 (37 CFR 1.17(k)) plus

• $210/$105 basic filing fee (37 CFR 1.16(b))
1. Request for Expedited Examination under 37 CFR 1.155 (Form PTO/SB/27)

2. Application is complete (37 CFR 1.154)

3. Drawings comply with 37 CFR 1.84

4. Pre-examination search…
Pre-examination Search

1. List of the field of search (e.g., US class and subclasses)
2. US patent documents
3. Foreign documents
4. Non-patent literature
Expedited Examination

- Can be mailed, hand delivered or e-filed
- For initial filing of papers only:
  
  Mail Stop Expedited Design Commissioner for Patents
  P.O. Box 1450
  Alexandria, VA 22313-1450

- Thereafter fax to
  “Special Procedures Submission”
Expedited Examination

- All processing is expedited from the date the request is granted (including appeal)
- Streamlined “filing-to-issuance”, not just while on examiner’s docket like accelerated examination
Accelerated Examination Applications

- 30 Design applications filed since the beginning of the program in 2006.
- 7 Petitions have been granted.
- 2 Applications have been allowed.
- 1 has issued: 6 months, 3 days.

Source: AE Tracking March 30, 2008
## Pendency - Designs

<table>
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<th>Process</th>
<th>2007</th>
<th>2008</th>
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<tr>
<td>Filing to First Action</td>
<td>11.7 mos.</td>
<td>10.4 mos.</td>
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<tr>
<td>Filing to Allowance</td>
<td>12.6 mos.</td>
<td>11.6 mos.</td>
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<tr>
<td>Filing to Issue</td>
<td>18.3 mos.</td>
<td>17.0 mos.</td>
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All applications in 2007: 26,626 were filed

- 25,819 were allowed in an average of 12.6 months
- 24,300 issued in an average of 18.3 months

Rocket Docket applications: In 2007,

- 532 were allowed in an average of 4.1 months
- 478 issued in an average of 9.2 months

- 445 were allowed on 1st action
  Allowed in an average of 3.1 months
  Issued in an average of 8.0 months

- 308 were filed in 2007. Of those:
  - 267 were allowed in an average of 2.5 months
  - 231 issued in an average of 5.8 months

Comparison: AE & Rocket Docket

All applications Filed in 2007
- Months to Issue: 18.3
- Months to Allowance: 12.6

Rocket Docket Allowed in 2007
- Months to Issue: 9.2
- Months to Allowance: 4.1

Rocket Docket allowed on 1st Action in 2007
- Months to Issue: 8
- Months to Allowance: 3.1

Rocket Docket Filed & Allowed in 2007
- Months to Issue: 5.8
- Months to Allowance: 2.5

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