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## IP Update

### IP Update - Accelerated Examination: New Procedures

April 5, 2011

In response to applicant feedback regarding delays in examination, the U.S. Patent and Trademark Office (USPTO) has established a new procedure for prioritizing examinations of certain applications. On April 4, 2011, the USPTO issued a new, final regulation in the *Federal Register* titled, "Changes to Implement the Prioritized Examination Track (Track I) of the Enhanced Examination Timing Control Procedures."

For an additional fee of \$4,000, and if the applicant complies with strict procedural requirements, the USPTO will expedite examination of any utility or plant application filed on or after May 4, 2011, and hopes to provide a final disposition within 12 months of granting prioritized status. "Final disposition" means mailing of a notice of allowance, mailing of a final office action, filing of a notice of appeal by the applicant, declaring an interference, filing of a request for continued examination by the applicant, or abandoning the application. Because the USPTO includes mailing of a final office action in "final disposition," applicants may wish to enter the program with a very clear understanding of the scope of allowable claims over the prior art and to request an early interview with the Examiner to advance prosecution.

In order to participate in the program, the application must be complete on filing and must be filed electronically (unless it is a plant application). The USPTO also limits the number of claims in a Track I application to four independent claims and 30 dependent claims, and does not allow multiple dependent claims. If an applicant files a petition for extension of time, a request for continued examination, a request for suspension of action, or an amendment that would increase the number of claims beyond the limits set in the program, the application loses its special status. The special status does not apply to applications during an interference or appeal.

The USPTO will only accept 10,000 applications into this program during the remainder of fiscal year 2011.

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