

**From:** Erin Sheehan [email redacted]  
**Sent:** Wednesday, May 20, 2015 2:33 PM  
**To:** WorldClassPatentQuality  
**Cc:** [emails redacted]  
**Subject:** AIPLA Response to the Request for Comments on Enhancing Patent Quality

Good afternoon,

Attached please find the comments of the American Intellectual Property Law Association (AIPLA) in response to the USPTO Request for Comments on Enhancing Patent Quality, as published in the Federal Register on February 5, 2015, 80 Fed. Reg. 6475.

Thank you for considering our views on this important issue.

Best,

**Erin Sheehan**  
**Communications Specialist**

American Intellectual Property Law Association (AIPLA)  
241 18th Street, South, Suite 700  
Arlington, VA 22202  
(703) 412-1315 (Direct)  
(703) 415-0786 (Fax)  
[\[email redacted\]](#)  
[www.aipla.org](http://www.aipla.org)

May 20, 2015

The Honorable Michelle K. Lee  
Under Secretary of Commerce for Intellectual Property and  
Director of the United States Patent and Trademark Office  
United States Patent and Trademark Office  
600 Dulany Street  
Alexandria, VA 22314

*Via email: WorldClassPatentQuality[at]uspto.gov*

**Re: Response to the Request for Comments on Enhancing Patent Quality  
80 Fed. Reg. 6475 (February 5, 2015)**

Dear Under Secretary Lee:

The American Intellectual Property Law Association (AIPLA) is pleased to have the opportunity to present its views on the United States Patent and Trademark Office “Request for Comments on Enhancing Patent Quality” as published in the Federal Register on February 5, 2015, 80 Fed. Reg. 6475 (“Request”).

AIPLA is a nationally based bar association of approximately 15,000 members who are primarily lawyers in private and corporate practice, government service, and the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly and indirectly in the practice of patent, trademark, copyright, unfair competition, and trade secret law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property in the United States and throughout the world.

The Request for Comments seeks public input and guidance to direct the Office’s continuing efforts toward enhancing patent quality with a focus on improving patent operations and procedures in order to provide the best possible work product, enhance the customer experience, and improve existing quality metrics.

## **I. Introduction**

The purpose of the U.S. patent system is to promote progress in the useful arts. This occurs when the public has ready access to knowledge of innovations. The U.S. patent system is intended to encourage disclosure of innovations by granting to inventors the exclusive right to their discoveries for a limited time. A quality patent discloses the inventor’s discovery in a manner that allows the person of ordinary skill in the art to understand both the invention and its

metes and bounds. Both the scope of the invention and the inventor's right to claim that scope should be apparent from the patent and the intrinsic record. The patent system, however, must be available to all inventors. Reducing the cost of obtaining a patent works against the features of a quality patent as it reduces both the time that may be allotted to prepare and prosecute the application and the time that may be allotted to examining it. The tension between quality and cost is at the heart of the Request for Comments in that it asks how practitioners and the Office can most effectively use their resources to provide the best possible patent under the constraint of limited costs.

The three pillars identified by the Office—Excellence in Work Product, Excellence in Measuring Patent Quality and Excellence in Customer Service—provide a focus for this effort. Excellence in Work Product is fundamental to producing quality patents. It cannot be achieved, however, unless the proper metrics are in place. Excellence in Customer Service engages the patent applicants with the Office in the shared task of producing quality patents.

In the Request for Comments, the Office sought comments on six proposals organized under the three pillars.

Under Excellence in Work Product, the Office asked for comments on three proposals: (1) allowing applicants to request prosecution review of selected applications, (2) allowing Examiners to request an automated pre-examination search, and (3) Clarity of the Record. The third proposal includes three sub-proposals: (a) making claim construction explicit in the record, (b) providing further detail in the recordation of interviews, and (c) providing a more detailed summary in the Examiner's statement of reasons for allowance.

Under Excellence in Measuring Patent Quality, the Office provided information on currently-used quality measures and asked for comments on how they might be improved.

Under Excellence in Customer Service, the Office identified two proposals: (1) a review of compact prosecution and, in particular, the desirability of a procedure by which an applicant might pay for entry of an additional response before a Final Rejection, and (2) a proposal to increase the availability of Examiners for in-person interviews. Each of these proposals is addressed below.

## **II. Excellence In Work Product**

AIPLA believes that a roadmap for Excellence in Work Product should include the following:

- Assurance that the most relevant prior art is considered by the Examiner.
- Correct evaluation of the patentability of the claims under all sections of the statute.
- Clear but concise Office Actions explaining the positions taken by the Examiner to establish a well-defined record of the examination proceedings, including substantial evidence supporting the Examiner's findings.
- Efficient resolution of the issues raised during examination to conclude the examination quickly, avoiding refiling and appeals if possible.

Each of the proposals under Excellence in Work Product is addressed below.

**a. Applicant Request for Prosecution Review of Selected Cases**

As described in the Request for Comments, the Office proposes to establish a mechanism by which an applicant could request prosecution review of a particular application by the Office of Patent Quality Assurance (OPQA). This would be an option for the applicant who believes that the application contains an issue which would benefit from further review. The applicant's request for review would identify the application by serial number, and the application would then be placed into a pool of other applications for selection by OPQA.

This proposal generated many questions. Would the applicant be able to submit comments for guiding OPQA to the issue to be previewed? How would OPQA decide which applications to select from the pool? How many applications would be selected from the pool in a given time period? Would the request for review be able to be traced back to the applicant? What actions would be taken as a result of the review?

If only a few applications are randomly selected for review each month, the program may not be considered worthwhile as the odds of having an application selected for review would be small. To ensure that the program is used, the Office should publicize how and when applications are selected from the pool. Furthermore, other selection criteria should be considered to take into account behavior of both applicants and Examiners. For applicants, review should be less likely for those who have requested review of many other applications. For Examiners, review should be more likely for applications handled by those who meet developed criteria of engaging in "outlier practices." Such practices should include: rejecting or allowing a larger than normal percentage of applications; issuing a larger than normal number of Office Actions at the end of the quarter; and having a pattern of excessive or larger than average numbers of RCEs.

Applicants should be allowed to provide a brief statement which points OPQA to the issue they believe needs to be addressed. If the statement indicates persistent issues over several Office Actions, the review by OPQA should consider all of the Actions and not limit their review to the most recent Action.

To encourage use of the program, there should be no discoverable record that the applicant requested that the application to be placed in the pool, and the OPQA review should not be traceable back to the applicant. A third party should not be able to request the review of an application.

The outcome of the program should include the resolution of the issue if OPQA determines that the rejection was not correct or that there was some incorrect action taken by the Examiner. This might involve a withdrawal of the rejection and the issuance of a new rejection, but in such case, the new rejection should not be made final.

The primary responsibility for ensuring that cases are correctly examined should be with the Examiner's supervisor. If this program is implemented, it should be in conjunction with changes

in procedure that encourage applicants to request intervention by the supervisor and that provide supervisors with sufficient resources to ensure that Examiners produce a high-quality work product.

While this proposal has merit for resolving problem applications, the extensive resources required for implementation suggests that such a program could not handle a large number of requests for review. This could undermine the program and result in dissatisfaction.

**b. Automated Pre-examination Search**

The Request for Comments proposes a procedure permitting an Examiner at his/her discretion to ask the USPTO's Scientific and Technical Information Center (STIC) for an automated pre-examination search using its Patent Linguistic Utility Service (PLUS) tool. The PLUS tool uses an algorithm that identifies frequently-used terms in the application and performs a keyword search, limited to U.S. patents and publications, based on those terms. In addition to requesting comments on this proposal, the Office also asked for suggestions to improve the PLUS tool or of other tools that may be used in a similar manner.

It is difficult for AIPLA to provide comments on the PLUS tool as we do not know how it operates, but we provide the following based on the limited description provided in the Federal Register Notice.

To ensure that proper weight is given to the claim terms, each dependent claim should be expanded to include all of the limitations of its base claim and any intervening claim before the tool is applied. Furthermore, once the terms are identified, the search should not be limited to searching just the identified keywords but should include modifications of the keywords obtained from their stem words and concept-semantic analysis. Keywords consistently used within a short range of each other should also be taken into consideration using relational word searching. Finally, the Office should consider expanding the search to include, not only U.S. patents and publications, but also PCT applications and applications filed in other countries.

As for how the search results should be used, it is important to maintain the requirement that the Examiner perform an independent search of the prior art after gaining an understanding of the invention from the specification and claims. Any references from the automated search that are cited by the Examiner should be specifically identified as such. It may be beneficial for the Examiner to have an interview with the applicant shortly after analyzing the results of the automated search but before the Examiner's independent search to allow the applicant and the Examiner to come to a common understanding of the intended scope of the claims. The applicant may then submit a preliminary amendment based on the discussion.

The results of any search and/or examination of a corresponding application in a foreign office should also be considered by the Examiner. The filewrapper should include the search strategy, reporting where and how the Examiner searched the applications, which databases were searched (foreign patents, classes and subclasses, search terms, etc.). It should be clear whether a text search or search of each document within a subclass was performed. At least in certain fields, the Office should consider making some types of searches mandatory, such as a search of the

non-patent literature, for example. The automated search will necessarily produce more prior art than would be produced by the Examiner's search alone. Applicants see this as beneficial since it is more likely that pertinent references for dependent claims would be identified and included in the record.

Finally, we believe that STIC searches using the PLUS tool should be made available to the public, perhaps for a fee.

### **c. Clarity of Record**

The Request for Comments proposes recognizes that the intrinsic record is critical to the understanding of the disclosed innovation as well as to the meaning and scope of the claims. It asked for comments on whether any of the following three proposals should be implemented to increase the clarity of the intrinsic record: (i) making claim construction explicit in the record, (ii) adding further detail in the recordation of interviews, and (iii) providing a more detailed summary where a statement of reasons for allowance is deemed to be necessary. Each of these proposals is addressed below.

#### **i. Making Claim Construction Explicit in the Record**

Requiring an Examiner to do a claim-by-claim analysis is contrary to *In re Jung* 637 F.3d 1356 (Fed. Cir. 2011) ("There has never been a requirement for an Examiner to make an on-the-record claim construction of every term in every rejected claim and to explain every possible difference between the prior art and the claimed invention in order to make out a prima facie rejection. This court declines to create such a burdensome and unnecessary requirement.") Instead, the Examiner must find disclosure in the prior art that would be covered by each claim element when the claim element is given its broadest reasonable interpretation.

The applied claim construction, however, should be clear from the prosecution history with an explanation in the office action concerning how the claims are being interpreted in making the rejections. Applicants may request an explicit construction where it is not clear. The Examiner should provide any such interpretation as early as possible in the prosecution so that disputes on the correct interpretation of the claim can be resolved. Within the explanation of the rejections, the prosecution history should also clearly indicate whether the claim preamble is limiting and should also indicate the interpretation of functional language in the claim.

If the Office implements a requirement for Examiners to make claim construction explicit, we recommend starting it as an opt-in pilot program with a more formalized protocol for presentation of the claim interpretation/construction information that is clear but not unduly burdensome on the Examiner.

#### **ii. Adding Further Detail in the Recordation of Interviews**

Interviews increase patent quality because they allow applicants and Examiners to freely discuss the invention. Recording additional details of interviews may be counterproductive if it

discourages applicants from having interviews. A balance needs to be struck between capturing important information for the record without inhibiting free communication between the applicant and Examiner.

It should be clear, however, from the total record why rejections are withdrawn. Thus, persuasive arguments made in interviews should be made of record, as reflected in the interview summary, the applicant's response to the interview summary, or the applicant's response to the rejection.

### **iii. Providing a More Detailed Summary in the Statement of Reasons for Allowance**

Examiners should ensure that their reasons for allowing an application are clear on the record. It would be better for the Examiner to ensure that the reasons for allowing the application are clear from the Office Actions and responses, rather than from a supplemental statement in the Reasons for Allowance. This is especially true as the Statement of Reasons for Allowance is given little weight during litigation. Improvements in compact prosecution may result in Office Actions and responses that are clearer, obviating any need to provide a more detailed summary.

## **III. Excellence in Measuring Patent Quality**

The Office asked for comments on the Quality Composite Metric, and provided website links describing the Quality Index Reporting (QIR) Component Metric for Quality Composite. This quality metric may be applied to the Office as a whole (all Examiners having at least one-year of experience) or to individual Examiners. The formula for the QIR Component Metric for Quality Composite appears to be directed to minimizing: (1) actions per disposal, (2) RCE disposals, (3) prosecutions reopened after final action, (4) two or more non-final actions per disposal, and (5) restrictions made on second or subsequent actions.

AIPLA is concerned that this metric is not consistent with patent quality as it appears to be directed more toward improving production than quality. Many of the activities being measured occur when the Examiner recognizes and corrects a problem. Examiners should not be penalized for this behavior. Many of our members believe that RCEs have had a negative impact on patent quality because they have essentially eliminated after final practice and, thus unduly extend patent prosecution. A more suitable metric than actions per RCE and RCE disposals may be total number of actions to a final disposal.

Some suggestions for Examiner performance metrics include: percentage of applications with interviews; percentage of cases having Examiner initiated interviews before Final Action; level of difference between successive Office Actions; minimizing patent term adjustment; minimizing appeals, percentage of claims invalidated in post-grant proceedings, and entry of amendments after final to find allowable subject matter. Overall, the quality metrics that are selected for Examiner evaluation should be aligned with the definition of patent quality. The Office should use metrics that reward behaviors that enhance the identified quality goals and penalize behaviors that impede these goals. For example, the current rewards incentivize extended prosecution through RCEs.

Analysis of the composite quality metric is further complicated because each element of the composite is a percentage towards a goal, not towards 100% compliance. Thus, each component is a percentage of a percentage. Consequently, it is difficult to ascertain exactly what level of quality this composite represents. Furthermore, the individual reported elements of the composite do not include, and seem somewhat at odds with, the numbers of applications being reopened or allowed following a pre-appeal brief conference or an appeal conference.

#### **IV. Excellence in Customer Service**

##### **a. Review of the Current Compact Prosecution Model**

The Request for Comments asks whether the current compact prosecution model should be modified. The Office made a specific proposal in this regard, a procedure by which an applicant might pay for entry of an additional response that may or may not require an Examiner interview to further prosecution in an application before a final rejection is issued.

AIPLA is in favor of allowing entry of an additional response before a fee is due. Many believe that the current compact prosecution model with a second action final, which often includes new prior art and new rejections, does not permit an adequate amount of latitude in amendment options. Thus, it seems that the ability to provide another response and amendment should be provided or more comprehensive treatment of the claims initially should occur.

Should the additional response require the payment of a fee, however, the applicant should receive a non-final action if the response filed with the fee makes significant claim amendments or otherwise raises new issues. There is a concern that while this program would offer some additional options, it may further degrade the after final practice so that it becomes meaningless. AIPLA appreciates the programs implemented by the USPTO to address the RCE problem, but it appears that the efforts should be focused on the front end of the process to provide a complete search of the prior art, citation of all relevant art, and an action which addresses all issues in the application.

As described above, many applicants see RCE practice as working against patent quality. There is a perception by AIPLA members that Examiners prolong prosecution through one or more RCEs in order to increase their counts. This hurts patent quality as it results in unnecessary material being entered into the prosecution history and is costly for applicants. There is also a perception that some Examiners do not perform a complete search before issuing the first action. This results in piecemeal prosecution as new searches are required even when limitations from dependent claims are added to the independent claims.

Incomplete searches result in the application of new prior art following even a minor amendment with the new rejection being made final even though the art seems relevant to the original claims as well. Consequently, an RCE must be filed for the consideration of modest changes to the claims that should have been anticipated and searched by the Examiner based on a reading of the specification and what the invention entails. The MPEP in section 904 states that the search



should cover the invention as described and claimed, including the inventive concepts toward which the claims seem to be directed. A focus on complete first searches should be undertaken.

Regarding the existing initiatives, AIPLA members have noted disappointment with both the AFCP 2.0 and the Interview Before First Action pilot programs. AFCP 2.0 worked well initially. Recently, however, applicants have noticed that requests for AFCP 2.0 are more often not considered and the amendments are not entered by the Examiner. At least with some Examiners, the Interview Before First Action program appears to essentially be the same as a normal prosecution, but with shorter time periods for response. Several members noted that the first Office Action mirrors the initial search report and does not take into consideration points raised during the interview. The current incentives do not favor Examiner participation in the AFCP 2.0 program because they can always get more credit by refusing consideration of amendments after final, necessitating the filing of an RCE. Our members have noted that after final practice has been greatly reduced since the introduction of the RCE. Efforts to incentivize completing prosecution without the need for an RCE might stimulate Examiners to consider a greater number of after final changes.

Interviews were identified by several members as being key to improving patent prosecution generally and the compact prosecution model in particular. Examiners should be strongly encouraged to accept requests for interviews early in the prosecution. Examiners who are reluctant to speak should be given coaching or be offered assistance from Primary or Supervisory Examiners.

Additional options for case resolution of applications should be considered, including the ability to directly participate in the pre-appeal brief or appeal conferences. Currently, the pre-appeal brief conference does not provide any real explanation of why the request was unsuccessful nor is there any explanation following an appeal conference. Because interviews are viewed as valuable and contributing to the advancement of prosecution by both the practitioners and the USPTO, allowing practitioners to participate in these conferences would assist in consolidating issues for appeal or resolving the issues and advance to allowance. This would reduce RCEs and appeals and thus this program would be worth the investment in time.

Another suggested proposal for a resolution process is a program that can be triggered once an application is twice rejected with the establishment of "resolution specialists" who participate in interviews by facilitating better communications between the applicant and Examiner. This process could provide a conference between applicant, Examiner, the supervisor and a third Examiner (primary, QAS, or resolution specialist) with the objective to allow the claims, amend the claims to make them allowable or agree to proceed to appeal, generating a substantive decision on the merits of the case. Thus, the resolution conference could take the place of the current appeals conference and ideally include suggestions to put the application in condition for allowance or appeal. It sometimes happens that applicant does not really understand the interpretation being taken by the Examiner or the Examiner does not understand the point made by applicant or the principle of the law being raised. A resolution specialist could assist in helping this communication but would not be the substantive decider of the outcome. The Examiner and SPE would retain the decision making on the outcome of the application. This would entail a more substantive evaluation that is currently performed by the Ombudsman.

The resolution conference would be a good training tool for Examiners, and would provide some indication of Examiner performance and the quality of the work being done. It should require all parties to prepare by reviewing the prosecution history including the cited references and may require the applicant to pay a fee.

Because of the many different aspects of compact prosecution including patent quality, administrative overhead and production constraints, AIPLA believes that the most effective approach for addressing any improvements to compact prosecution may be to review the entire system to ensure that it allows Examiners to efficiently and effectively use their time to search and analyze each application so that they can produce quality Office Actions. Once such a system is developed, the count system should be revised to encourage its use and appropriate metrics should be designed to ensure the quality of the entire examination process.

#### **b. In-person Interview Capability for All Examiners**

Recognizing the benefits of in-person interviews and the difficulties of conducting such interviews with Examiners in the hoteling program, the Office proposes a program by which in-person interviews could be conducted at additional locations such as the regional patent offices or the patent repository libraries across the country. Under this program, as an alternative to an in-person interview at the main campus or one of the regional patent offices, an applicant would be able to have an in-person interview at the patent repository library closest to the Examiner.

Any such cite should be able to ensure that conversations between the practitioner and Examiner are private and should have access to the following equipment:

- Internet access
- Printer
- Whiteboard
- Large screen display
- Public transportation and/or parking

Our members also believe that in-person interviews are beneficial and are the preferred type of interview, and we are grateful that the Office has proposed this program. It may also be beneficial, however, to expand the number of venues to include local Federal Courthouses or other Federal buildings.

In addition to increasing the venues for in-person interviews, it may be desirable to improve the quality and availability of WebEx interviews. The Office should continue to promote awareness of the WebEx video option. Our members who have participated in these interviews note that at least some of the Examiners do not use their cameras. A major benefit of interviews is the ability to see the Examiner and judge body language as well as hearing the comments made during the discussion. Accordingly, the use of the camera has been noted as important. Additional training should be made available both for Examiners and practitioners.

A successful approach utilized by a number of our members is to do an in-person interview with the supervisor while the hoteling Examiner calls in or alternatively, in-person with the Examiner while the supervisor phones in. Based on our feedback from those who have used this technique, this permits better communication with the Office, permits a better read of body language, and facilitates an improved experience for practitioners. Often there are a number of parties on the phone but having an actual face-to-face meeting eliminates some confusion and delays that can occur in phone conferences. This typically occurs with at least one practitioner present at the USPTO to hold an in-person interview and one or more USPTO employees and applicant representatives on the telephone.

Another suggestion would be for the USPTO to have Interview Specialists available at the USPTO and Satellite offices to handle an in-person discussion with the applicant's representative(s), and to have the Examiner, and in some instances the SPE as well, telephone into the interview. Again, this offers some in-person discussion that is seen as very valuable to our members and often regarded as more satisfying and productive. The Examiner and SPE would retain the decision making on the outcome of the application. The role of the Interview Specialists would be to help facilitate communication between Applicant/Applicant representative and the Examiner.

#### **V. Other Changes to Existing Procedures to Improve Efficiency and Effectiveness of Examination Process**

In addition to the six proposals, the Federal Register Notice requested suggestions for changing existing procedures to improve patent quality. We received several suggestions from members which are listed below.

##### **a. Analyze PTAB Decisions and Rejections in Other Countries to Improve Searching and Examination**

A relatively large percentage of claims subject to post-grant proceedings have been found invalid. The Office should study at least some of these decisions to determine how examination may be improved. Similarly, corresponding foreign applications that were not allowed should be checked to determine why they did not issue as patents in those patent offices. For example, if the proceeding or foreign prosecution invalidated a claim based on newly discovered reference, the Office should determine if the Examiner's search could have found the reference and, if not, change the search procedures or add databases to correct the problem. Similarly, if reviews of multiple post-grant proceedings show a pattern where rejections are missed or are improperly applied, the Office should develop training modules directed at these errors.

##### **b. Increased Legal Training for Examiners**

The Office should consider providing increased legal training to Examiners. Many Examiners do not respond to legal arguments except to quote language from the MPEP. Examiners need to be trained in the proper steps to make rejections under Sections 101, 102, 103 and 112 and what evidence they need to provide to support their rejections. Also very importantly, Examiners need

to understand that following an amendment and arguments, the decisions frequently become legal decisions, not strictly scientific ones; that an evaluation of the new record is required with a legal determination of the record being made, and that a change in position based on the new record does not mean their original position was incorrect, but rather that the new record dictates a new decision. The rejection may still be appropriate but a full consideration of the record must be made with an explanation of the position taken along with rebuttal of all arguments raised in the response.

Training on the broadest reasonable interpretation should be provided for both Examiners and practitioners. This could include examples highlighting situations where the interpretation taken by the Examiner is not reasonable and also situations where the practitioner does not understand how broadly the claims can be interpreted.

#### **c. Identification of Applications Requiring Additional Effort in Examination**

In certain circumstances it may be desirable and beneficial to increase the typical resources allotted to examine a particular application due to the complexity of the technology of the application or the complexity and quantity of information required to be reviewed. Typically a given application is allotted a set number of examining hours based on the area of technology of the application and other factors associated with a typical or average examination of that technology. From time to time an application may fall far outside the typical or average examination for that technology and require additional resources. SPEs or group directors should be given the discretion to adjust the allotted examining time or other resources in individual applications to ensure a quality examination. For example, if very large volumes of documents must be considered, if the technology requires special specific knowledge, or the issues raised are very complex extra resources should be provided to ensure a quality examination. Furthermore, applications in families where one of the family members has been the subject of a reexamination, post-grant review or litigation may require more resources in examination to ensure that the information in the related proceedings is adequately considered in the pending application.

#### **d. Focus SPEs on training**

SPEs are the primary trainers and the responsible party for the quality of the work from their art unit, but they are tasked with many additional projects at the expense of what should be their primary objective—teaching new Examiners the job and ensuring high quality work from the art unit. The Office should focus SPEs on this goal and provide the time for them to accomplish it.

At the same time, in interviews applicants look to the SPE to correct Examiners mistakes or to redirect the examination to achieve a productive result. Emphasis on this role by SPEs could also assist in higher quality and earlier resolution of problems. Responding to improper or piecemeal rejections is expensive both for practitioners and the Office. When the supervisor becomes aware of quality issues with an Examiner, the supervisor or a trainer should engage the Examiner to correct the issue and reinforce the quality objective. Intervention by the SPE or some official at the USPTO would help to improve efficiency, quality and reduce costs.

**e. Processing backlogs**

Our members report that there appears to be a backlog in processing petitions for the Patent Prosecution Highway and for Track 1 Prioritized Applications. The Office should ensure that sufficient resources are allocated to these important programs. In addition, the public should be informed of any backlog as soon as it is recognized.

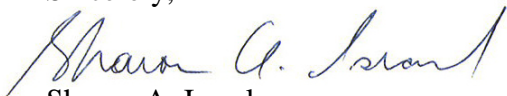
**f. Applicant Assistance Unit**

AIPLA members are not satisfied with the level of customer service provided by the administrative staff. Long wait times for the Applicant Assistance Unit (AAU) are the rule rather than the exception. Wait times could be shortened by dividing the functions among different units and providing different contact numbers. The forms used by the Office of Initial Patent Examination should be revised to more clearly identify issues to be addressed. Often, the check-box on the form does not indicate the true problem and, in response to a call, staff at the AAU cannot determine the nature of the issue. The AAU staff should be trained to direct applicants to the proper resources quickly without having to make multiple calls. Administrative personnel should be required to return calls from applicants within at most one business day. A system should be instituted to address inquiries from practitioners about administrative functions.

\* \* \* \* \*

AIPLA supports the USPTO's continuing efforts on enhancing patent quality, welcomes the opportunity to answer any questions these comments may raise, and looks forward to a continuing dialogue on this very important subject.

Sincerely,



Sharon A. Israel

President

American Intellectual Property Law Association