

Impact of Post Allowance Review on Patent Quality

Innoastra

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Introduction



In the United States, the process of obtaining a patent is a meticulous and complex journey, often requiring detailed technical disclosures, claims adjustments, and rigorous examination by the United States Patent and Trademark Office (USPTO). A pivotal point in this journey is the post-allowance phase, a critical stage following the allowance of a patent application where certain formalities and reviews are carried out before a patent is granted. This

article explores the post-allowance review process.

Understanding Post-Allowance

Once a patent application has been examined and found to meet the statutory criteria of novelty, non-obviousness, and usefulness, the USPTO issues a "Notice of Allowance," indicating that the application is on track to become a patent. However, before the patent is officially issued, the applicant must pay an issuance fee within three months of receiving the notice. This stage is known as the post-allowance phase.

The issuance fee is a final step to confirm the applicant's intent to proceed with the patent. In some cases, an applicant may decide not to pay the fee, effectively abandoning the application after it has been allowed. This could occur if, for example, the applicant has determined that the potential value of the patent does not outweigh the costs of obtaining and maintaining it.

Importance of Post-Allowance Review:

Ensuring Patent Accuracy: Post-Allowance Review acts as a safety net, providing a final opportunity for the applicant to refine the application and eliminate any inconsistencies.

Preventing Costly Litigation: A thorough Post-Allowance Review reduces the likelihood of legal disputes and patent infringement cases by identifying and addressing potential weaknesses in the patent application.



Post-Allowance Review

After paying the issuance fee, the applicant or their representative should conduct a thorough post-allowance review. This review provides an opportunity to identify and address any errors or issues before the patent is issued.

- **Verify Completeness:** Review all the materials, including the specification, claims, abstract, and drawings, to ensure they are complete and correct. Check the application for typographical and grammatical errors that might cloud the understanding of the invention.
- **Confirm Inventorship:** Ensure that all inventors are correctly listed and that the Oath or Declaration has been properly executed by all inventors.
- **Confirm Assignee:** Confirm if latest assignment document is present in File History documents.
- **Review Claims:** Review Claims as per final amendment and Examiner’s amendment filed.
- **Confirm if submitted IDS has been considered:** Check if all IDSes filed have been considered by the examiner, failing which the patent could be invalidated if important prior art references were not considered during the examination.
- **Identify if IDS needs to be filed:** Check if any additional prior art recently identified in the counterpart application needs to be cited.

REVIEW REPORT			
APPLICATION DETAILS	Original	Amended (Date)	Comments
Title	*		
Specification		Yes (26 Jun 2019)	
Cross-Reference Section (CRS) Does the most recent CRS (list all appts) in the priority chain AND their continuity/relationship type			No CRS Found First filed in the patent family
Abstract	*		
Drawings		* (18 Mar 2017)	Acceptance of corrected drawings in OA dated 9 Apr 2019 There is no suggested figure for publication in the ADS
Suggested figure for publication?	NA	NA	Small Entity Status not claimed
Entity Size			
PRIORITY/FAMILY DETAILS			
Parent Continuity Data	No parent Continuity Data		
Child Continuity Data	16/750,861 filed on 01-23-2020 which is Pending claims the benefit of 15/368,600		
DOCUMENT INFORMATION DETAILS	Yes	No	Comments
Oath & Declaration Filed and Executed?	*		Submitted for present application/ parent application?
Inventor Names: Correct order? Mis spellings? Correct middle name?	*		TOTAL: 7 inventors
Assignment Status	*		Executed & Available at USPTO
ADS 1. Are all domestic and foreign priority applications identified in the correct section of the form? 2. Do all priority claims have the correct appl./patent nos. and filing dates?			No Parent Continuity The allowed claims are 1, 2, 5, 6 and 7
Amendment post Allowance			Rejoinder Request Claims 3, 4, 8, 9, 10, 11
Notice of Allowance (18 Feb 2020)			The allowed claims are 1-11.
	Yes	No	Comments
Examiner's Amendment	*		
Reasons for Allowance	*		
1.312 Amendments	*		
1.312 Amendments - Acknowledged and entered?	*		
Examiner's Interview	*		
Preamble of Claims			Checked, ok
Claim Dependency			Checked, ok
OBSERVATIONS: History appears to be in order All references cited by applicant have been considered by the examiner			

In this post-allowance phase, it's crucial to note that any changes to the patent application should be minimal and should not substantively modify the approved claims or the overall disclosure. Any significant modifications could require a re-examination by the USPTO and possibly result in a new round of amendments and negotiations.

Conclusion

The post-allowance review is a vital step in the patent application process. While the "Notice of Allowance" is a positive sign indicating approval, it's not the end of the journey. Applicants must remain diligent, conducting a thorough review to ensure accuracy and completeness, and thereby, protecting their inventions. This stage not only solidifies the patent's enforceability but also can play a key role in preventing future legal disputes or challenges to the patent's validity. Therefore, a comprehensive post-allowance review is paramount for the robustness and longevity of a patent.

About InnoAstra

InnoAstra renders end-to-end IP life cycle management services to an array of entities for streamlining their IP processes – from conceptualization to actualization to commercialization.

info@innoastra / www.innoastra.com
812-815 Tolstoy House, 15-17 Tolstoy Marg, New Delhi-110001, India