

Post-Prosecution Pilot Program (P3) ? Life 'After Final'

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PRACTICES Intellectual Property, Patents, Patent Prosecution and Counseling

Eager to promote the concept of “compact” patent prosecution, the U.S. Patent and Trademark Office (“PTO”) has introduced a new tool to respond to a final rejection in a patent application. Starting today, the Post-Prosecution Pilot Program (“P3”) allows a patent applicant to request and participate in a conference with a panel of three (3) patent examiners to review the Applicant’s response to the final rejection. The P3 builds on features from other PTO programs and creates a new opportunity to expedite prosecution before a Notice of Appeal is due. For example, the P3 combines:

1. an after final response to be considered by a panel of examiners (from the Pre-Appeal Brief Conference Pilot Program);
2. an after final response that may include an optional non-broadening amendment (from the After Final Consideration Pilot Program 2.0); and
3. an opportunity to make an oral presentation to the panel of examiners (new, similar to Pre-Appeal Brief Conf. Pilot Program).

Participation in the P3 begins with a request filed by the Applicant within two (2) months from the mailing date of a final rejection, and before filing a notice of appeal. The request must be accompanied by a response to the final rejection and a statement that the Applicant is willing and available to participate in the conference. The request may also include a proposed non-broadening amendment to one or more claims. No fee is required for participation. In response, the PTO will issue a notice of decision indicating one of the following: (a) final rejection upheld; (b) allowable application; or (c) reopen prosecution. In appropriate circumstances, a proposed amendment may accompany the notice of decision proposing changes that, if accepted, may result in an indication of allowability. The P3 Pilot is scheduled to sunset on January 12, 2017 or upon receipt of 1,600 compliant requests by the PTO.

The intent of the program is to bring examiners and applicants together and boost prosecution efficiency when agreement has not yet been reached. [View the full PTO Notice.](#)

For more information please contact one of the lawyers listed below.