

Patent Reform in the Patent and Trademark Office: Deferred Examination

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I. Background

II. Problems in the Patent and Trademark Office

III. Deferred Examination

IV. Motivations and Impacts of Policy



The Congress shall have power...

To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries

The United States Constitution, Article 1, Section 8, Clause 8



Innovation defines the United States



Patents are vital to economic growth



The patent process translates technology



Patent and Trademark Office (PTO) facilitates



US007761937B2

(12) **United States Patent**
Foutz et al.

(10) **Patent No.:** US 7,761,937 B2
(45) **Date of Patent:** Jul. 27, 2010

(54) **TIMEPIECE SHOWER HEAD**

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(*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 227 days.

(21) Appl. No.: 12/220,128

(22) Filed: Jul. 22, 2008

(65) **Prior Publication Data**
US 2009/0031492 A1 Feb. 5, 2009

Related U.S. Application Data

(60) Provisional application No. 60/963,033, filed on Aug. 1, 2007.

(51) **Int. Cl.**
A47K 3/28 (2006.01)

(52) **U.S. Cl.** 4/597; 4/605; 4/661; 239/289; 239/71

(58) **Field of Classification Search** 4/597; 4/605, 615, 559, 675, 678, 567, 616-618; 137/551, 552.7; 239/289, 70, 71

See application file for complete search history.

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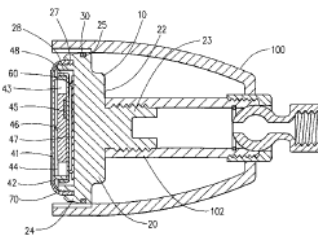
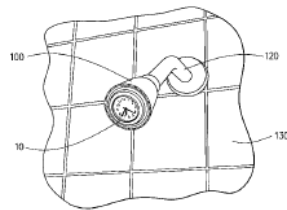
* cited by examiner

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(57) **ABSTRACT**

A modified shower head provides a timepiece imbedded within a shower head insert allowing a person showering to keep track of time and also to monitor water usage. It also provides the person showering with a timing mechanism to determine the length of time for use of hair products, tints, dyes and treatments without having to reference an outside timepiece. The insert comprises a timepiece within an encased water-proof enclosure within the shower head insert.

8 Claims, 3 Drawing Sheets

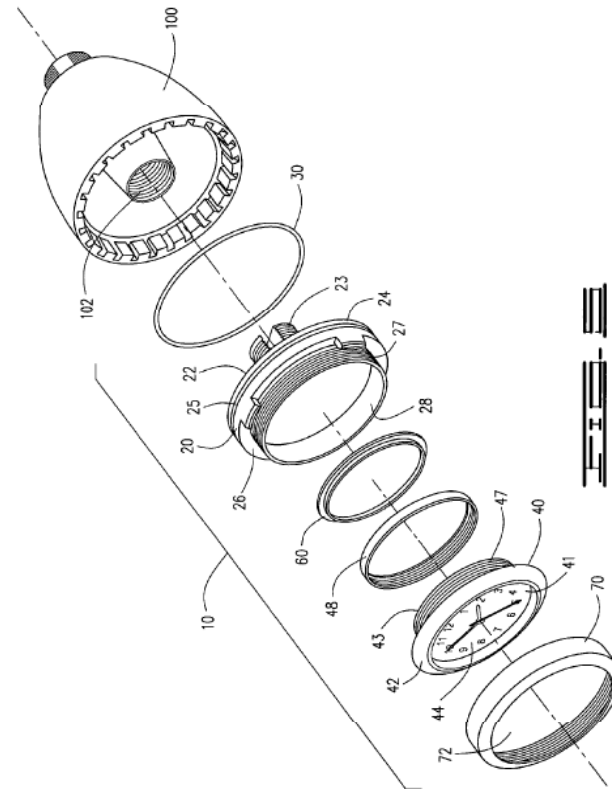


U.S. Patent

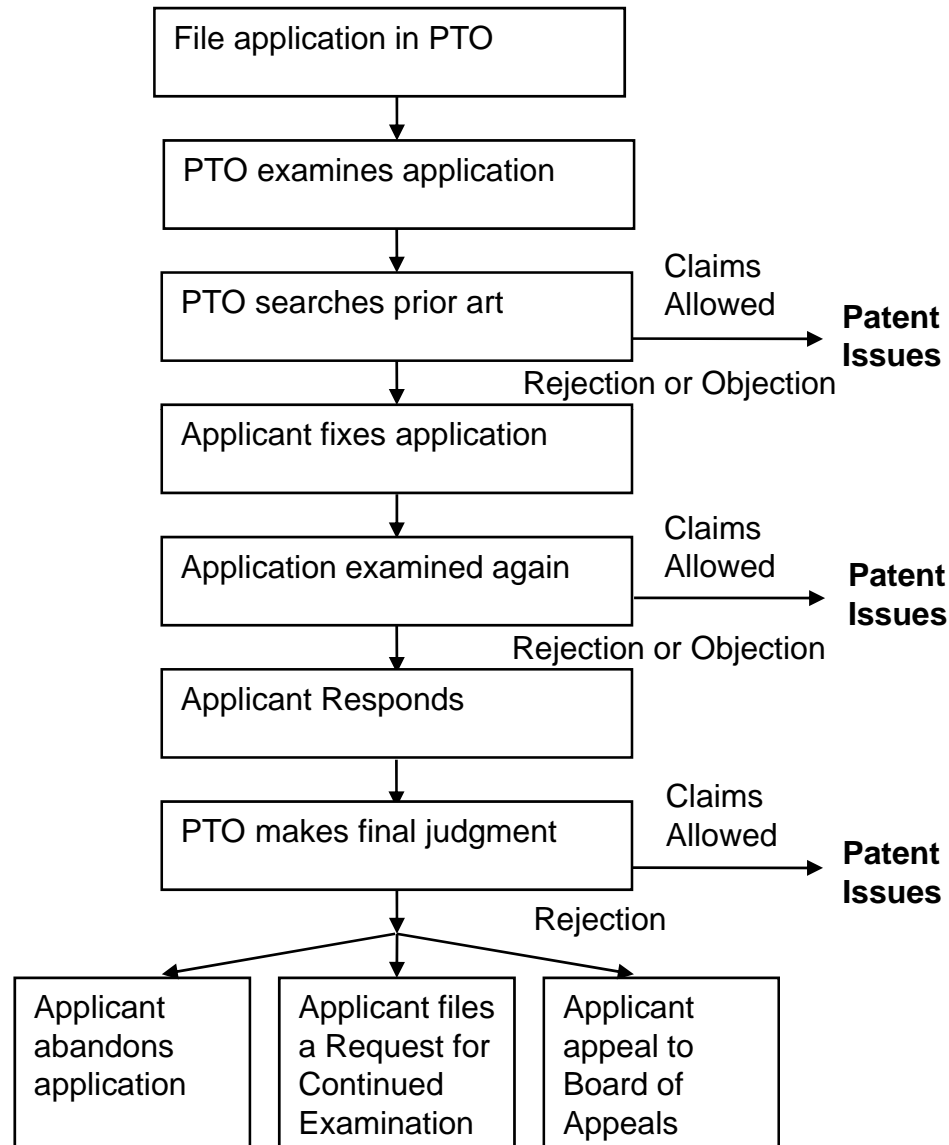
Jul. 27, 2010

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The Patent Process



The
United
States
of
America



**The Director of the United States
Patent and Trademark Office**

Has received an application for a patent for a new and useful invention. The title and description of the invention are enclosed. The requirements of law have been complied with, and it has been determined that a patent on the invention shall be granted under the law.

Therefore, this

United States Patent

Grants to the person(s) having title to this patent the right to exclude others from making, using, offering for sale, or selling the invention throughout the United States of America or importing the invention into the United States of America for the term set forth below, subject to the payment of maintenance fees as provided by law.

If this application was filed prior to June 8, 1995, the term of this patent is the longer of seventeen years from the date of grant of this patent or twenty years from the earliest effective U.S. filing date of the application, subject to any statutory extension.

If this application was filed on or after June 8, 1995, the term of this patent is twenty years from the U.S. filing date, subject to any statutory extension. If the application contains a specific reference to an earlier filed application or applications under 35 U.S.C. 120, 121 or 365(c), the term of the patent is twenty years from the date on which the earliest application was filed, subject to any statutory extensions.

John W. I. Deudas

Director of the United States Patent and Trademark Office

AIChE

U.S. Patent and Trademark Office

Funding

- \$741 million in fiscal years 1992-2004 diverted

Poor Examination Quality

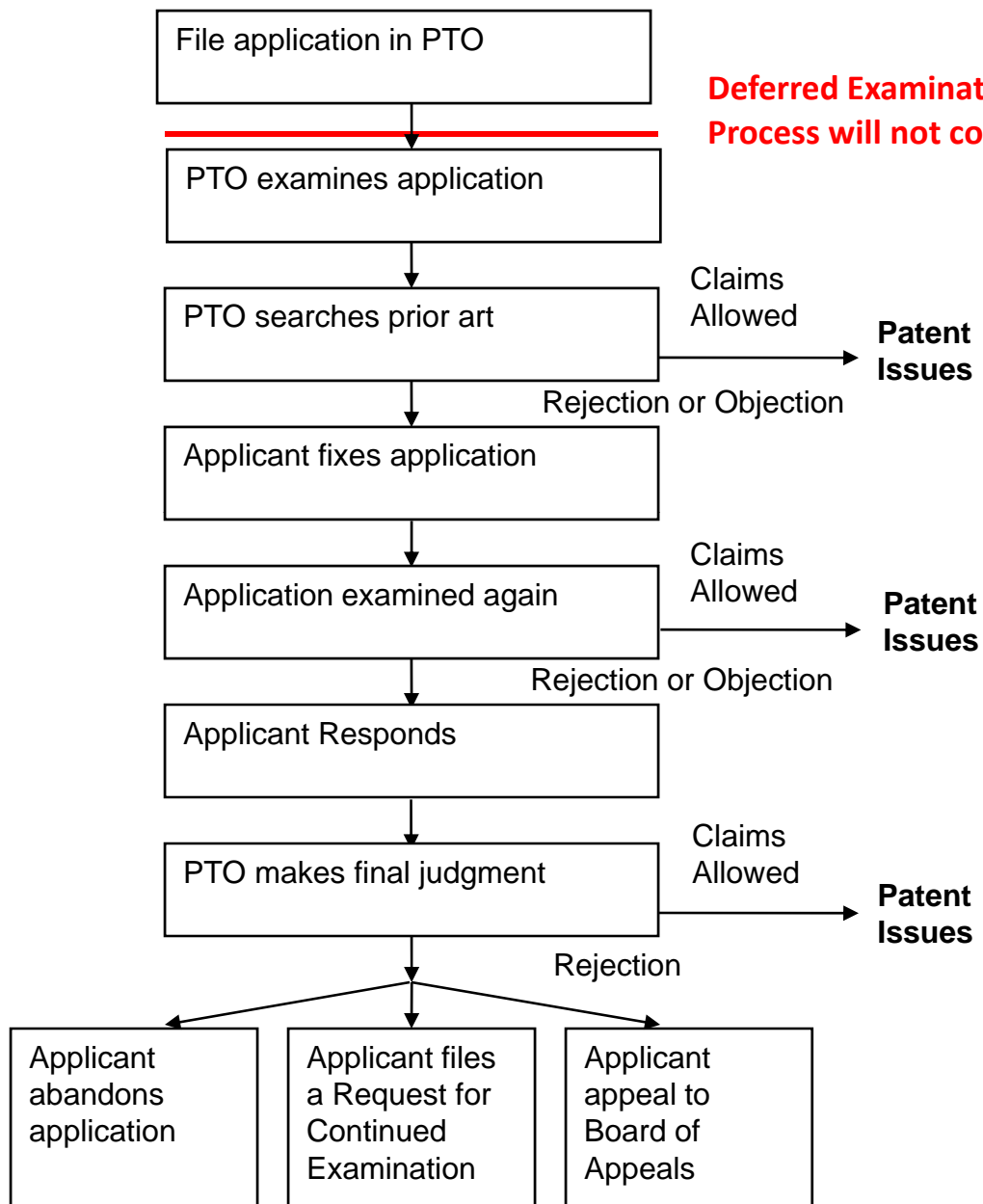
- Erroneous Allowances
- Erroneous Rejections

Increasing Backlog

- 700,000+ applications not initially examined
- 1.2 million pending applications
- 35 months average pendency



Deferred Examination



Deferred Examination:
Process will not continue until requested

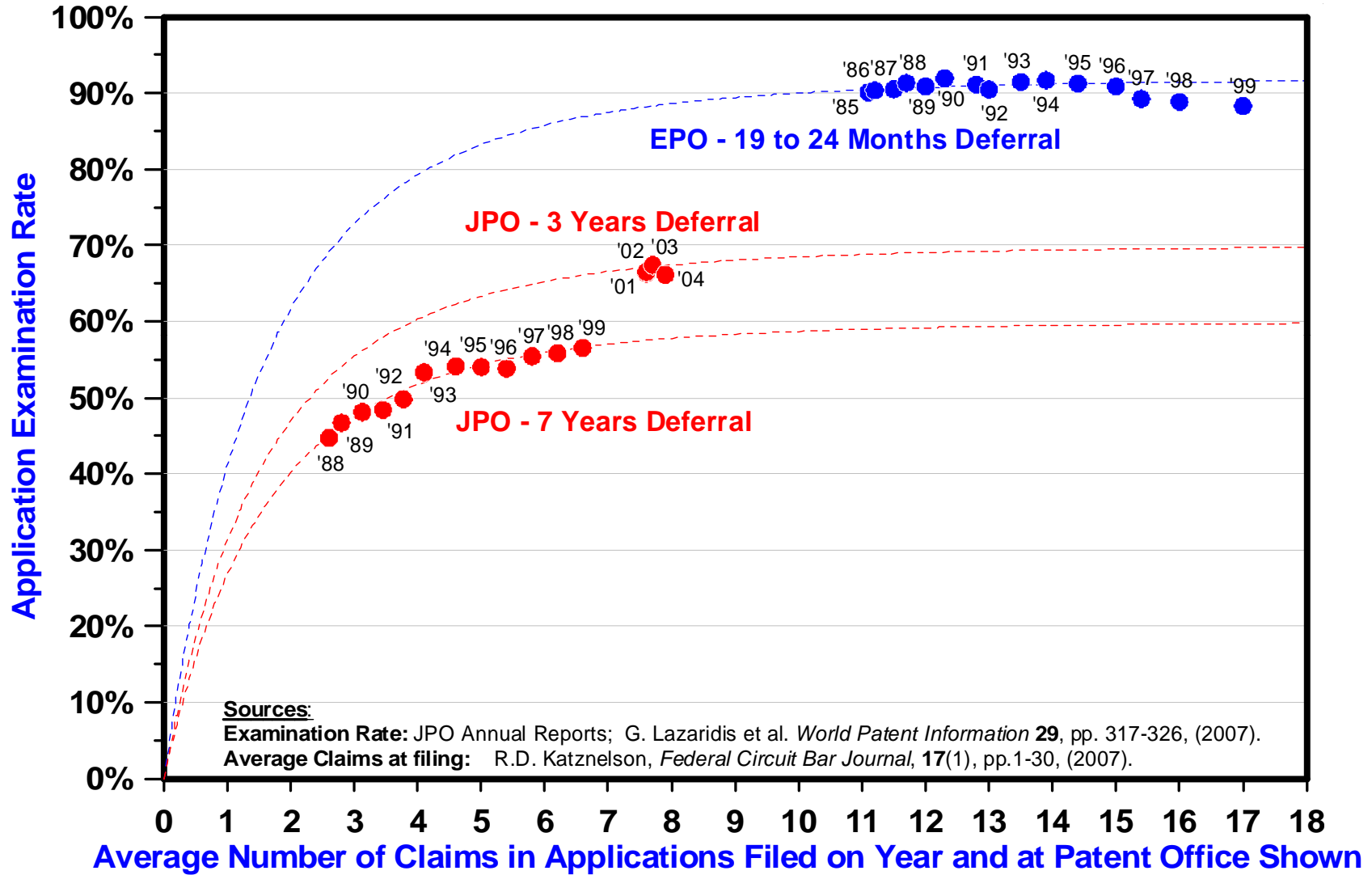


Deferred Examination

1. Patent applications would not be examined until explicitly requested by the applicant

2. There is a three year period of time that the applicant can request for examination
3. If no request is submitted at the end of three years, the application will be abandoned

Examination Rate at National Patent Offices



Katznelson, Ron. "Examination-On-Request-A Deferred Examination Proposal for the U.S. Patent Office." Comments Submitted to the USPTO. May 29, 2009. Appendix, pp. 9.

Applicant Costs Saved

Search Fee*	\$540
Examination Fee*	\$220
Average Excess Claim Fees†	\$440
Total potential deferred	\$1200



*Large Entity

† Katznelson, Ron. "Examination-On-Request-A Deferred Examination Proposal for the U.S. Patent Office."
Comments Submitted to the USPTO. May 29, 2009.



Flexibility

“One-size-fits-all” examination practice is no longer effective

Pharmaceuticals/Biotechnology benefits from longer development time

Better applications

Policy Details

- The applicant is allowed up to three years to request for examination, after which, the application will be abandoned if no requests have been made.
- The applicant will pay the search, examination, and claim fees upon requesting the examination.
- There will be a no changes in patent term adjustment.
- This program will be separately implemented from the 2010 proposed three-track process.
- Applications subject to deferral must be published within 18 months of filing.
- Third parties who, can anonymously, request examination must pay the associated fees.

Deferred Examination



Give the applicants control

(Costs saved and flexibility)



Encourage innovation

Streamline the PTO



Reduce Backlog in PTO



Patents granted faster



Stimulate economy





Questions?

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Special Thanks to:

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AICHE