

# U.S. TRACK I PRIORITIZED PATENT EXAMINATION IN EFFECT

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**Practices & Industries**

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The United States Patent and Trademark Office (USPTO) has implemented a Track I prioritized examination program to provide innovators a new, more responsive option to pursue patent protection.

One major benefit of this program is the opportunity to receive a final disposition from the USPTO within 12 months, on average, of the date prioritized status is granted. In 2011, the average pendency for first action was 28 months, and for a final disposition, 34 months. Track I applicants can expect a pendency reduction of more than 66 percent.

In addition to an accelerated examination, U.S. applicants may benefit from early final disposition in foreign countries, as several countries will issue a national patent if a corresponding application is issued in the United States. Additionally, applicants may benefit from Patent Prosecution Highway agreements between various intellectual property offices around the world. Under these agreements, an applicant with an allowed claim in the United States may request that participating countries accelerate the examination of corresponding claims.

The Track I prioritized examination program comes with additional costs. To apply, an applicant is required to pay a fee of \$4,800 in addition to standard filing fees. For small entities, a reduced fee of \$2,400 is available. Applicants may request non-publication and still participate in the Track I program, and unlike other accelerated examination programs, the Track I program does not require a prior art search and analysis.

The Track I program has some notable limitations:

- Final disposition, provided within an average of 12 months of the date prioritized status is granted, can include a notice of allowance or final office action. After either of these events, the application loses its priority status.
- Applicants are required to respond to office actions without extensions of time. If a request for extension is filed, the application loses priority status.
- A priority examination request cannot be applied retroactively; the request must be submitted with a new application.

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Applicants interested in this program must be mindful of these limitations.

The USPTO has limited Track I prioritized examination to the first 10,000 requests per fiscal year. Any non-provisional application with no more than four independent claims, 30 total claims, and no multiple dependent claims, filed on or after September 26, 2011, is eligible.

