Examination of Priority-Certificate Applications

Estimated Examination Fee: $1,000 - $1,500 / priority-certificate (3-5 times cheaper than examination of patents!). Please see explanations below.

The process of examining priority-certificate applications is similar to the one employed by USPTO for examining patent applications. Expert examiners in each field may be commissioned to perform examination. Process may include:

1. rigorous examination aimed at determining whether claimants are entitled to priority
2. rigorous prior art searches
3. requirement that applications include clear and explicit priority-claims (similar to patent claims, but without the crazy requirements)
4. determining a priority-date for each claimed idea or discovery (request for evidence)
5. examination performed according to clear rules & procedures (such as the rules in the "Manual of Patent Examining Procedure")
6. all applications treated equally and by the rules
7. appeal process similar to the one used by USPTO

Note: the "peer review / comments" performed while the priority-claims have been posted on the Registry will make examiners' job much easier - examiner will consider the feedback received by the priority-claim; the results of the prior-art searches; and the results of the "automatic examination".

What makes examination of invention patents expensive?

USPTO spends on average $4,500 on each patent application. Much of the costs of patent examination come from the fact that patents come with significant "economic rights". Because of this, the stakes are perceived as very high both for the applicants and for the Government. On one side, applicants regard their inventions as potentially very valuable (one can easily argue that $100 millions depend on granting of the patent – most often not true). On the other side, Government is aware that wrongfully granting a patent may have major negative consequences (e.g. the price of life-saving drugs may increase 1000 times, brings litigation, etc.).

The perceived "high stakes" have many negative consequences on the process:
1. Patent applications are much longer and complicated than necessary – applications written by lawyers as "impenetrable citadels" such as to cover all possible situations (many of them useless – "quality" is not relevant) and to withstand all sorts of challenges that may appear during litigation.
2. Application include much more claims than necessary - usually 20 claims (most times one claim would be enough to understand the invention)
3. Claims focused on covering as much "property ground" as possible (not on the quality of the idea) end up covering more devices than intended.

4. Patent office is strongly biased towards rejecting the applications (99% of applications receive a rejection in the first office action!) because fear of wrongfully granting patents. Examiners have an interest in prolonging the proceedings so as to make applicants pay more fees.

Other reasons why examination of patent applications is expensive:
- USPTO is a fat and inefficient government agency – they spend about $180,000 for each employee! (USPTO has about 14,000 employees out of which 10,000 are examiners and 1000 are lawyers. They spend 2 billion a year on employees and 1 billion on contractors)
- Employees are US-based and well paid (average examiner salary is $90,000 + about 40K in Government benefits). Even though job retention is not great – examiner's work is boring.

Our proposed system for examining priority-certificate applications:

(A). Using academics in foreign countries as examiners (on "part-time" basis).

We note that thousands of academic journals use highly skilled academics & professionals to perform article review essentially for free (they pay them nothing!).

We propose a system where examiners are selected from among academics in countries such as: Russia, India, China, Romania, Brazil, etc. (e.g. professors at Universities in Romania). The average salary of associate professors in such countries is between 5 to 10 times lower than the salary of a USPTO examiner (in Romania the salary of a lecturer/conferentiar is $6,000 / $10,000 per year). At the same time a professor at a University in Romania is likely much more skilled than an examiner at USPTO (most examiners have BS degrees).

We contemplate that such a professor would keep his full time job with the university and would make some extra income by working part-time as "examiner". The examiner would be paid $300-$400 per priority-certificate (examination may take between 10 to 30 hours). By examining two priority-certificates each month a professor could double his income. In addition we note that performing examination "part-time" is less likely to be as grinding/boring as when doing examination full time (as in the case of USPTO examiners).

It is a win-win situation for both the Administrator and the examiners. The Administrator would receive high-quality service at low cost. Administrator would further save by not having to pay "benefits" and not having to maintain facilities.

(B). Using artificial intelligence tools – we believe that in the near future "**Automatic Examination Engines**" will become so effective as to simplify the examination process a lot.

We believe that a 3-5 times cost reduction of examination can be achieved by:

(1). Using foreign academic as examiners, on a part-time basis (price of examination can be reduced at least by a factor of 2)

(2). Simplifying applications (e.g. shorter applications, eliminate legalese, small number of claims, focus on quality not "breadth of coverage")

(3). Not placing on the examiners pressure to reject applications

(4). Being more efficient than the US Government
(5). Using the feedback from public (comments and references posted on the priority-claim)
(6). Using "automatic examination engines" – in 10 years this may be an important factor.