Design Patent Quality
Examiner’s Perspective

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USPTO’s Enhanced Patent Quality Initiative

**Pillar 1 - Excellence in Work Products**
Provide the best work products and services at every stage of the patent process

**Pillar 2 - Excellence in Measuring Patent Quality**
Provide excellence in measuring patent quality, ensuring appropriate quality metrics target examination issues requiring attention

**Pillar 3 - Excellence in Customer Service**
Improve customer experience with an emphasis on customer service
The Design Patent Publication Quality program is investigating the feasibility of improving the image quality of published design patents. Degradation of finally printed patent grant images, relative to their incoming patent application images, is significant in design patents especially because the drawings define the claimed invention. Degradation of these images in the printed patent can have significant impact on our external stakeholders.
USPTO’s Enhanced Patent Quality Initiative

Design Patent Publication Quality

By October of this year we expect to begin seeing design patent grants with image quality equivalent to the images that were filed.

A copy of the grant will be available on Supplemental Content tab in Public PAIR (Patent Application Information Retrieval).
USPTO’s Enhanced Patent Quality Initiative

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Excellence in Work Products – Examiner’s Challenge

*Design patent quality*

Examiner’s concerns and challenges.
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

- Am I paying the right amount of time and attention to the right things?
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

- What are “the right things?”

- Definiteness
- Enablement
- Ornamentality
- Planning a search
- Searching
- Quayle Actions
- Prior art rejections
- New matter
- Restrictions
- Reissues
- Compact Prosecution
- Finals
- Case law
- Patentability
- Affidavits & Declarations
- Clear & Compete Record
- Applicant Responses
- Allowances
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

- Am I doing the right amount of work?

  110% or above  Outstanding
  103% - 109%  Commendable
  95% - 102%  Fully Successful
  88% - 94%  Marginal
  below 88%  Unacceptable
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

- Is my quality good enough?

  **Outstanding** – The error rate is 0% - 4.49%.

  **Commendable** – The error rate is 4.50% - 5.49%.

  **Fully Successful** – The error rate is 5.50% - 6.49%.

  **Marginal** – The error rate is 6.50% - 7.49%.

  **Unacceptable** – The error rate is greater than or equal to 7.50%.
Examiners are concerned with:

How can I do:

- Outstanding quality work and
- Outstanding production?
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

The rich number of resources presents a challenging search.

• U.S. Design patents
• U.S. Utility patents and Publications
• Foreign Utility patents, EPO, JPO, Derwent
• Non-patent literature
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

The rich number of resources presents a challenging search.

Designs from 42 countries and issuing authorities
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

Have I searched enough?
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

Quality & Quantity

Depending on the subject matter, the best search falls between an exhaustive search and an adequate search.
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

- Clarity in the drawings
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with Drawing clarity:

During prosecution, applicant has an opportunity and a duty to amend ambiguous claims to clearly and precisely define the metes and bounds of the claimed invention.

Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with Drawing clarity:
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with Drawing clarity:
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with Drawing clarity:

Display Screen with Icon
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

Display Screen with Transitional Icon
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with Drawing clarity:

Display Screen with Icon
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

• What about objections?
Excellence in Work Products – Examiner’s Challenge

*Examiners are concerned with:*

If a description is not correct but we know what is meant, should we require correction?

E.g.: Fig. 8 is partially enlarged view of Fig 2.

Crx: Fig. 8 is a detail view of Fig 2.
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

Pillar 3 - Excellence in Customer Service
Improve customer experience with an emphasis on customer service
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

- Productive interviews
- Emphasis upon including the substance of interviews in the record

In 2016 design examiners logged 1,511 of hours in applicant interviews.
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

• Should I allow the application with requirements to correct the drawings?
Excellence in Work Products – Examiner’s Challenge

Examiners are concerned with:

Should these requirements be made at allowance?

Convert the lines in the bottom view to broken lines.
Excellence in Work Products – Examiner’s Challenge

*Examiners are concerned with:*

Should this requirement be made at allowance?
Questions
Thank You