

USPTO—Challenges and Opportunities

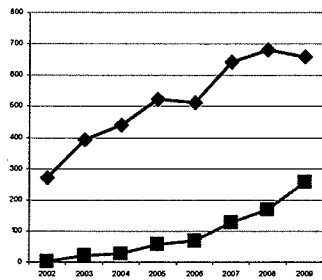
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• Panel Members

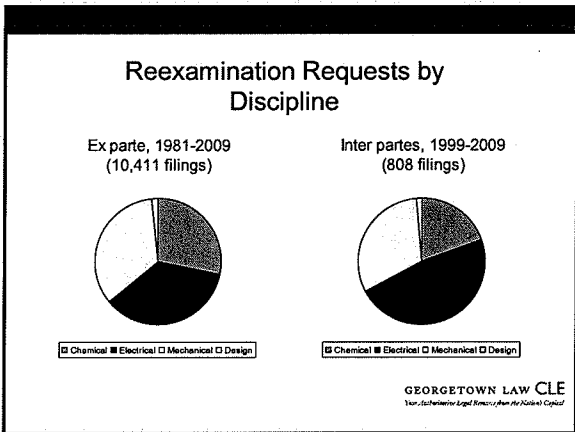
- Commissioner Robert L. Stoll—Commissioner of Patents, USPTO
- David L. Cavanaugh—Partner, WilmerHale
- Joseph P. Reagen—Counsel, Baxter Healthcare Corp.
- John M. Whealan—Associate Dean of Intellectual Property, GW University Law School

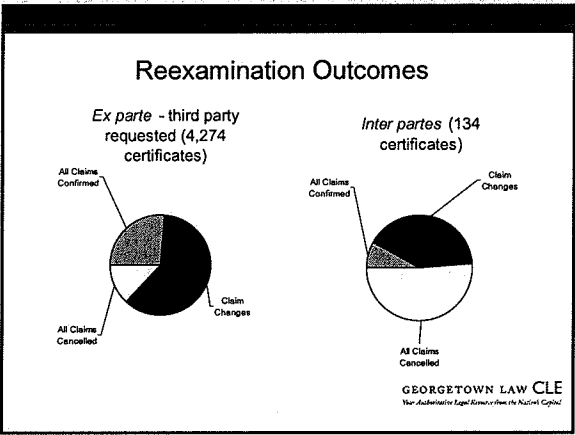
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Reexamination Requests Filed 2002-2009



◆ Ex parte ■ Inter partes
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- **Process and Possible Changes**
 - Are current procedures satisfying objectives?
 - What can be done to force narrowing of issues?
 - Should interviews be permitted?
 - How to explain the increase in non-compliant requests?
 - How can activities/behaviors that delay *inter parte* reexaminations be curtailed?
 - Should requests have a page limit?
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• Policy

- Should substantial new question of patentability (SNQ) standard be changed?
- Should real party in interest remain anonymous?
- Should patent term extensions be granted?
- How does *KSR* affect the SNQ standard?
- Post grant proceedings?
- How can workload and timeliness issues be addressed?

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• Interplay with Litigation

- How is reexamination different/similar to district court proceedings?
- Are "aggressive" litigation style tactics helpful?
- Should broadest reasonable interpretation be balanced against court's claim construction?
- Should deference be given to district court findings of fact?

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• Collateral Effects of Reexamination

- Does market react to an SNQ finding?
- How has reexamination changed strategy of in-house counsel?
- Is it cost prohibitive for small entities to defend reexaminations?
- Are high profile patents treated differently?

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- Disclosure/Candor/Inequitable Conduct

- How to balance duty of candor and compliance under MPEP 2686?
- Does flooding PTO with material provide shield to inequitable conduct?
- Is it necessary to submit information beyond that required by 37 CFR 1.555?

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QUESTIONS

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ex Parte Reexamination Filing Data - December 31, 2009

Table with 5 main categories: 1. Total requests filed since start of ex parte reexam on 07/01/81 (10411 total); 2. Number of filings by discipline (Chemical, Electrical, Mechanical, Design); 3. Annual Ex Parte Reexam Filings (table with columns for Fiscal Yr. and No. from 1981 to 2004); 4. Number known to be in litigation (3307); 5. Decisions on requests (9996 total, 92% granted, 8% denied).

1Of the requests received in FY 2010, 20 requests have not yet been accorded a filing date, and preprocessing of 8 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for Ex Parte and Inter Partes Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

6.	Total examiner denials (includes denials reversed by Director).....			879	
	a. Patent owner requester		448	51%	
	b. Third party requester		431	49%	
7.	Overall reexamination pendency (Filing date to certificate issue date)				
	a. Average pendency		25.4 (mos.)		
	b. Median pendency		19.8 (mos.)		
8.	Reexam certificate claim analysis:	Owner	3 rd Party	Comm'r	
		<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>	<u>Overall</u>
	a. All claims confirmed	22%	26%	12%	24%
	b. All claims cancelled	8%	13%	23%	11%
	c. Claims changes	70%	61%	65%	65%
9.	Total <i>ex parte</i> reexamination certificates issued (1981 – present)			7284	
	a. Certificates with all claims confirmed		1745	24%	
	b. Certificates with all claims canceled		834	11%	
	c. Certificates with claims changes		4705	65%	
10.	Reexam claim analysis – requester is patent owner or 3 rd party or Commissioner initiated.				
	a. Certificates – PATENT OWNER REQUESTER			2858	
	(1) All claims confirmed		628	22%	
	(2) All claims canceled		237	8%	
	(3) Claim changes		1993	70%	
	b. Certificates – 3 rd PARTY REQUESTER			4274	
	(1) All claims confirmed		1099	26%	
	(2) All claims canceled		562	13%	
	(3) Claim changes		2613	61%	
	c. Certificates – COMMISSIONER INITIATED REEXAM			152	
	(1) All claims confirmed		18	12%	
	(2) All claims canceled		35	23%	
	(3) Claim changes		99	65%	



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Inter Partes Reexamination Filing Data – December 31, 2009

Table with 7 main categories and sub-categories. Category 1: Total requests filed since start of inter partes reexam on 11/29/99 (808). Category 2: Number of filings by discipline (Chemical: 158/20%, Electrical: 385/48%, Mechanical: 253/31%, Design: 12/1%). Category 3: Annual Reexam Filings (table with columns for Fiscal Yr. and No. for years 2000-2008 and 2010YTD). Category 4: Number known to be in litigation (552/68%). Category 5: Decisions on requests (699 total, 96% granted, 4% not granted). Category 6: Overall reexamination pendency (Average: 36.2 mos., Median: 31.9 mos.). Category 7: Total inter partes reexamination certificates issued (134 total, 8% confirmed, 51% canceled, 41% changes).

1Of the requests received in FY 2010, 9 requests have not yet been accorded a filing date, and 2 requests have had preprocessing terminated, for failure to comply with the requirements of 37 CFR 1.915. See Clarification of Filing Date Requirements for Ex Parte and Inter Partes Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

Quarter ending 3/31/10

Reexaminations - FY 2010



Pending Reexaminations	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Preprocessing	87	83		
Awaiting Order/Denial	96	109		
Between Order and First Action on the Merits	343	279		
Between FAOM and NIRC	1345	1395		
Between NIRC and Publication of Certificate	162	197		
Total	2033	2063		

Volume of Proceedings

	YTD Through Quarter 1	YTD Through Quarter 2	YTD Through Quarter 3	YTD Through Quarter 4
Filings	242	470		
Ex Parte	168	344		
Inter Partes	74	126		
Orders Granting Reexamination	205	396		
Ex Parte Orders	153	282		
Inter Partes Orders	52	114		
Denials	10	23		
Ex Parte Denials	10	22		
Inter Partes Denials		1		
First Actions on the Merits	186	451		
Ex Parte FAOMs	122	319		
Inter Partes FAOMs	64	132		
Notices of Intent to Issue a Reexamination Certificate	183	389		
Ex Parte NIRCs	165	351		
Inter Partes NIRCs	18	38		
Reexamination Certificates	254	445		
Ex Parte Certificates	224	395		
Inter Partes Certificates	30	50		

Timing of proceedings

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Average Months from Filing to Order	1.9	1.9		
Average Months to Ex Parte Order	1.9	1.8		
Average Months to Inter Partes Order	2.2	2.1		
Average Months from Filing to Denial	2.0	1.9		
Average Months to Ex Parte Denial	2.0	2.0		
Average Months to Inter Partes Denial		1.6		
Average Months from Filing to FAOM	6.5	6.9		
Average Months to Ex Parte FAOM	7.6	7.8		
Average Months to Inter Partes FAOM	4.4	4.2		
Average Months from Filing to NIRC	24.1	24.1		
Average Months to Ex Parte NIRC	23.0	23.8		
Average Months to Inter Partes NIRC	34.6	26.9		
Average Months from Filing to Certificate	31.8	27.6		
Average Months to Ex Parte Certificate	31.1	26.5		
Average Months to Inter Partes Certificate	37.3	37.3		

Source: Filings from ex parte and inter partes historical statistics.

Pendency, First action, NIRC ("Notice of Intent to Issue a Reexamination Certificate") and Certificate data from PALM.

Note: This data is recorded by reexamination control number. Where proceedings are merged, the merged proceeding will appear as multiple instances. For this reason the certificate count will not match the number of individual reexamination certificates published in the Official Gazette.

Reexaminations - FY 2009



Pending Reexaminations	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Preprocessing	42	77	56	89
Awaiting Order/Denial	127	110	127	101
Between Order and First Action on the Merits	438	373	339	323
Between FAOM and NIRC	1336	1356	1373	1349
Between NIRC and Publication of Certificate	171	224	207	258
Total	2114	2140	2102	2120

Volume of Proceedings

	YTD Through Quarter 1	YTD Through Quarter 2	YTD Through Quarter 3	YTD Through Quarter 4
Filings	222	441	676	916
Ex Parte	154	308	481	658
Inter Partes	68	133	195	258
Orders Granting Reexamination	191	392	583	794
Ex Parte Orders	153	288	427	576
Inter Partes Orders	38	104	156	218
Denials	17	27	41	51
Ex Parte Denials	10	18	29	38
Inter Partes Denials	7	9	12	13
First Actions on the Merits	195	449	686	910
Ex Parte FAOMs	154	332	519	701
Inter Partes FAOMs	41	117	167	209
Notices of Intent to Issue a Reexamination Certificate	137	372	581	822
Ex Parte NIRCs	130	338	521	735
Inter Partes NIRCs	7	34	60	87
Reexamination Certificates	171	346	571	797
Ex Parte Certificates	160	324	527	724
Inter Partes Certificates	11	22	44	73

Timing of proceedings

	Quarter 1	Quarter 2	Quarter 3	Quarter 4
Average Months from Filing to Order	2.0	1.8	1.8	1.9
Average Months to Ex Parte Order	1.9	1.7	1.7	1.8
Average Months to Inter Partes Order	2.3	2.1	1.9	2.1
Average Months from Filing to Denial	2.4	2.2	1.6	1.7
Average Months to Ex Parte Denial	2.1	2.3	1.7	1.8
Average Months to Inter Partes Denial	2.8	1.8	1.0	1.0
Average Months from Filing to FAOM	9.5	8.7	7.7	7.5
Average Months to Ex Parte FAOM	10.3	10.6	8.7	8.2
Average Months to Inter Partes FAOM	6.1	4.2	3.7	4.7
Average Months from Filing to NIRC	24.2	28.9	28.3	25.8
Average Months to Ex Parte NIRC	23.5	28.1	28.2	24.7
Average Months to Inter Partes NIRC	36.6	35.2	29.3	34.5
Average Months from Filing to Certificate	32.9	31.0	33.8	31.1
Average Months to Ex Parte Certificate	32.3	31.1	33.0	30.5
Average Months to Inter Partes Certificate	41.7	28.9	41.7	35.2

Source: Filings from ex parte and inter partes historical statistics.

Pendency, First action, NIRC ("Notice of Intent to Issue a Reexamination Certificate") and Certificate data from PALM.

Note: This data is recorded by reexamination control number. Where proceedings are merged, the merged proceeding will appear as multiple instances. For this reason the certificate count will not match the number of individual reexamination certificates published in the Official Gazette.

Reexaminations - FY 2008



Pending Reexaminations

	Quarter 1*	Quarter 2*	Quarter 3*	Quarter 4
Preprocessing				
Awaiting Order/Denial				
Between Order and First Action on the Merits				
Between FAOM and NIRC				
Between NIRC and Publication of Certificate				
Total				

Volume of Proceedings

	YTD Through Quarter 1*	YTD Through Quarter 2*	YTD Through Quarter 3*	YTD Through Quarter 4
Filings	210	412	615	848
Ex Parte	165	330	487	680
Inter Partes	45	82	128	168
Orders Granting Reexamination	185	372	579	768
Ex Parte Orders	153	305	468	626
Inter Partes Orders	32	67	111	142
Denials	7	20	41	48
Ex Parte Denials	5	13	33	40
Inter Partes Denials	2	7	8	8
First Actions on the Merits	182	400	613	895
Ex Parte FAOMs	157	334	506	752
Inter Partes FAOMs	25	66	107	143
Notices of Intent to Issue a Reexamination Certificate	138	249	377	504
Ex Parte NIRCs	131	234	357	471
Inter Partes NIRCs	7	15	20	33
Reexamination Certificates	175	279	408	597
Ex Parte Certificates	174	273	392	575
Inter Partes Certificates	1	6	16	22

Timing of proceedings

	Quarter 1*	Quarter 2*	Quarter 3*	Quarter 4
Average Months from Filing to Order	2.0	2.0	1.8	1.9
Average Months to Ex Parte Order	1.9	1.9	1.8	1.8
Average Months to Inter Partes Order	2.3	2.3	2.1	2.2
Average Months from Filing to Denial	2.2	2.3	2.5	1.6
Average Months to Ex Parte Denial	2.1	2.1	2.5	1.6
Average Months to Inter Partes Denial	2.7	2.8	1.9	
Average Months from Filing to FAOM	10.8	10.9	11.2	11.3
Average Months to Ex Parte FAOM	12.0	12.2	12.5	12.1
Average Months to Inter Partes FAOM	3.5	5.1	5.6	6.3
Average Months from Filing to NIRC	24.2	26.4	25.5	26.3
Average Months to Ex Parte NIRC	23.5	26.3	25.4	25.2
Average Months to Inter Partes NIRC	36.6	27.5	28.2	38.5
Average Months from Filing to Certificate	32.9	31.6	37.6	31.8
Average Months to Ex Parte Certificate	32.9	31.3	38.0	31.7
Average Months to Inter Partes Certificate	27.2	38.3	32.7	36.0

Source: Filings from ex parte and inter partes historical statistics.

Pendency, First action, NIRC ("Notice of Intent to Issue a Reexamination Certificate") and Certificate data from PALM.

Note: This data is recorded by reexamination control number. Where proceedings are merged, the merged proceeding will appear as multiple instances. For this reason the certificate count will not match the number of individual reexamination certificates published in the Official Gazette.

*Prior to the fourth quarter of FY 2008, PALM data was retrieved as of April 2009. Starting in the fourth quarter of 2008, data is from the end of the respective quarter.

Reexaminations - FY 2007



Pending Reexaminations

	Quarter 1	Quarter 2	Quarter 3	Quarter 4*
Preprocessing				
Awaiting Order/Denial				
Between Order and First Action on the Merits				
Between FAOM and NIRC				
Between NIRC and Publication of Certificate				
Total				

Volume of Proceedings

	YTD Through Quarter 1	YTD Through Quarter 2	YTD Through Quarter 3	YTD Through Quarter 4*
Filings				769
Ex Parte				643
Inter Partes				126
Orders Granting Reexamination				693
Ex Parte Orders				575
Inter Partes Orders				118
Denials				20
Ex Parte Denials				19
Inter Partes Denials				1
First Actions on the Merits				499
Ex Parte FAOMs				416
Inter Partes FAOMs				83
Notices of Intent to Issue a Reexamination Certificate				417
Ex Parte NIRCs				409
Inter Partes NIRCs				8
Reexamination Certificates				394
Ex Parte Certificates				391
Inter Partes Certificates				3

Timing of proceedings

	Quarter 1	Quarter 2	Quarter 3	Quarter 4*
Average Months from Filing to Order				2.0
Average Months to Ex Parte Order				2.0
Average Months to Inter Partes Order				2.4
Average Months from Filing to Denial				2.1
Average Months to Ex Parte Denial				2.1
Average Months to Inter Partes Denial				
Average Months from Filing to FAOM				12.3
Average Months to Ex Parte FAOM				14.2
Average Months to Inter Partes FAOM				3.2
Average Months from Filing to NIRC				28.3
Average Months to Ex Parte NIRC				28.3
Average Months to Inter Partes NIRC				27.7
Average Months from Filing to Certificate				39.6
Average Months to Ex Parte Certificate				39.9
Average Months to Inter Partes Certificate				27.1

Source: Filings from ex parte and inter partes historical statistics.

Pendency, First action, NIRC ("Notice of Intent to Issue a Reexamination Certificate") and Certificate data from PALM.

Note: This data is recorded by reexamination control number. Where proceedings are merged, the merged proceeding will appear as multiple instances. For this reason the certificate count will not match the number of individual reexamination certificates published in the Official Gazette.

*Prior to the fourth quarter of FY 2008, PALM data was retrieved as of April 2009. Starting in the fourth quarter of 2008, data is from the end of the respective quarter.

OVERVIEW OF USPTO PROCEEDINGS FOR THE REEXAMINATION OF A U.S. PATENT

http://www.uspto.gov/patents/stats/Reexamination_Information.jsp

Effect of a Pending Reexamination -- Each claim of a patent is presumed valid under 35 U.S.C. 282 and may be enforced notwithstanding the presence of a pending reexamination proceeding. See *Ethicon v. Quigg*, 849 F.2d 1422, 1428, 7 USPQ2d 1152, 1157 (Fed. Cir. 1988); See also *Viskase Corp. v. Am. Nat'l Can Co.*, 261 F.3d 1316, 1328, 59 USPQ2d 1823, 1831 (Fed. Cir. 2001); *In re Etter*, 756 F.2d 852, 857, 225 USPQ 1, 4 (Fed. Cir. 1985)(en banc). Although litigation may move forward in parallel with a reexamination proceeding, at the district court's discretion, the results of the reexamination proceeding may have an effect on the litigation. See e.g., *In re Translogic*, 504 F.3d 1249 (Fed. Cir. 2007). Under 35 U.S.C. 307, a patent is not revised by any amendment or cancellation of a claim made during a reexamination proceeding until a reexamination certificate is issued.

Ex Parte Reexamination – A proceeding in which any person may request reexamination of a U.S. Patent based on one or more prior patents or printed publications. A requester who is not the patent owner (i.e., a “third party requester”) has only limited participation rights in the proceeding. [MPEP 2209]

Inter Partes Reexamination – A proceeding in which any person who is not the patent owner and is not otherwise estopped may request reexamination of a U.S. Patent issued from an original application filed on or after November 29, 1999 based on one or more prior patents or printed publications. Both patent owner and third party requester have participation rights throughout the proceeding, including appeal rights. [MPEP 2609]

Reexamination Granted – An Order Granting Reexamination is not a determination of claim patentability. An Order that one or more claims of a U.S. Patent will be reexamined because the request has established the existence of at least one SNQ based upon prior patents and/or printed publications. [MPEP 2247.01]

In *ex parte* reexamination, the Order, whether granting or denying reexamination, must be mailed within three months of the filing date of the request for reexamination. [MPEP 2241]

In *inter partes* reexamination, the Order must be mailed not later than three months after the request is filed. [MPEP 2641]

Reexamination Denied – An Order Denying Reexamination is also not a determination of claim patentability. An order denying reexamination of any of the claims of a U.S. Patent because the Office has determined that no SNQ has been established in the request for reexamination. [MPEP 2247.01]

Substantial New Question of Patentability (SNQ) – A request for reexamination must establish the existence of at least one new technological teaching affecting any claim of the patent for which reexamination has been requested that was not considered by the Office in a prior Office proceeding involving the patent. The SNQ is established based on prior patents and/or printed publications. [MPEP 2242]

Notice of Filing of Request for Reexamination – Notice that a request for reexamination has been filed and accorded a filing date is published in the *Official Gazette*. [MPEP 2215]

Rejection (Non-Final) – The initial Office action on patentability.

In *ex parte* reexamination, the initial action is not mailed with the Order Granting Reexamination; the patent owner may file optional comments, to which the third party requester may respond, prior to the initial Office action. Therefore the Office must await the expiration of the periods for such comments and responses thereto before mailing the initial action. [MPEP 2262]

In *inter partes* reexamination, the initial action may optionally be mailed together with the Order Granting Reexamination, but even if not, no party comments are permitted prior the mailing of the initial action.

Patent owner files a response to a non-final action that includes argument and/or an evidentiary showing and/or amendments, and the response will be entered as a matter of right. Third party requester may thereafter respond with written comments directed to the Office action and to the patent owner's response. [MPEP 2260]

Rejection (Final) – A second or subsequent action on patentability in an *ex parte* reexamination may be made “final.” While responsive arguments may be considered, entry of an amendment or consideration of additional evidence is not a matter of right in a final rejection. Patent owner may appeal to the USPTO Board of Patent Appeals and Interferences (BPAI). [MPEP 2271]

Action Closing Prosecution (ACP) – The second or subsequent action on patentability in an *inter partes* reexamination proceeding. Patent owner may respond with argument and/or an evidentiary showing and/or amendments. Alternatively, patent owner may choose not to respond. If patent owner does file a response, then third party requester may thereafter file written comments directed only to the patent owner's submission. Entry of the patent owner response is not a matter of right. Neither party may appeal at this point in the proceeding. [MPEP 2671.02]

Right of Appeal Notice (RAN) – After (1) considering any patent owner response to an ACP, and any third party requester written comments thereto, or (2) the expiration of the time for patent owner to file a response and no response has been filed, the examiner will either re-open prosecution if necessary, or issue a RAN. The RAN sets time periods in which the parties may appeal to the BPAI. The RAN also closes prosecution. Any amendment filed after a RAN will not be entered. [2673.02]

It is possible for the Office to issue a RAN after a patent owner response to the initial Office action on patentability if both parties stipulate that the issues are appropriate for a final rejection and or a final patentability determination.

Appeal to the BPAI – Ex Parte Reexamination – A notice of appeal is a proper response to a final rejection in an *ex parte* reexamination. Only patent owner may appeal. The appeal process is similar to that in a non-provisional patent application. [MPEP 2273]

Appeal to the BPAI – Inter Partes Reexamination – Either party may file a notice of appeal as a proper response to a RAN in an *inter partes* reexamination. If some claims are rejected and some claims are allowed or confirmed as patentable, both parties may appeal those determinations, file appeal briefs, respondent's briefs directed to the other party's appeal brief, and, after the examiner files the examiner's answer to those briefs, file a rebuttal brief directed to the examiner's answer. [MPEP 2674]

Subsequent (Court) Appeals – Ex Parte Reexamination – If the request for reexamination was filed prior to November 29, 1999, patent owner may appeal the decision of the BPAI to either the U.S. District Court for the District of Columbia, or to the Court of Appeals for the Federal Circuit. If the request for reexamination was filed on or after November 29, 1999, patent owner may appeal only to the Federal Circuit. [MPEP 2279]

Subsequent (Court) Appeals – Inter Partes Reexamination – Either party who was a party to an appeal to the BPAI and is dissatisfied with the result may appeal only to the Court of Appeals for the Federal Circuit. [MPEP 2683]

Concurrent Reexamination and Litigation – If there is concurrent litigation and reexamination on a patent, and the request for reexamination was filed as a result of court order, or the litigation has been stayed for the purpose of reexamination, the Office will expedite the proceedings by taking the case up for action at the earliest possible time, setting shorter response times, and permitting extensions of time only upon a strong showing of sufficient cause. [MPEP 2286]

Effect of Concluded Litigation on Reexamination

A court decision holding that a patent claim is valid will not preclude the Office from continuing to reexamine such claim in an *ex parte* reexamination proceeding, even if the court decision is final and non-appealable. The Office applies the “broadest reasonable interpretation” for claim language in a reexamination proceeding, because claims may be amended during the proceeding. Courts apply a less liberal standard of claim interpretation, and therefore, the Office may conclude that a claim held valid in a court proceeding is unpatentable or invalid in an *ex parte* reexamination proceeding. [MPEP 2286]

A final, non-appealable court decision holding that a patent claim is invalid will preclude the Office from ordering any reexamination proceeding for such claim, or, will result in termination of any reexamination proceeding previously ordered as to such claim. [MPEP 2286]

It should be noted that with respect to *inter partes* reexamination, a final, nonappealable holding in litigation that a patent claim is valid may operate to estop a party from even requesting *inter partes* reexamination of that claim, or from maintaining a previously ordered *inter partes* reexamination of that claim. Estoppel may also operate to preclude a party who has obtained an Order Granting *Inter Partes* Reexamination of a patent claim from asserting invalidity of that claim in litigation under Section 1338 of Title 28 on grounds that such party raised, or could have raised, during that *inter partes* reexamination, if that claim has been finally determined to be patentable in the *inter partes* reexamination proceeding. [MPEP 2686.04(V)]

Notice of Intent to Issue Reexamination Certificate (NIRC) – Reexamination proceedings do not become “abandoned.” Rather, an NIRC is mailed to inform the parties that a reexamination proceeding has been terminated, whether by the failure of a party to timely file a required response, or by the natural resolution of all outstanding issues of claim patentability. The NIRC lists the status of all claims that were subject to reexamination, including any patent claims that have been canceled and any claims added during the proceeding that were not part of the patent that were reexamined and determined to be patentable. The NIRC also indicates which patent claims, if any, were not reexamined. An NIRC may include an examiner’s amendment, and must include reasons for confirmation of any patent claims that were determined to be patentable without amendment, and reasons for allowance of any amended patent claims or any newly added claims. [MPEP 2287]

Reexamination Certificate – A reexamination proceeding is concluded by publication of a reexamination certificate. The certificate amends the text of the patent that was reexamined, in a manner analogous to a certificate of correction. The Reexamination Certificate will contain the text of all changes to the text of the patent that was the subject of the reexamination proceeding. [MPEP 2288 and 2290]

Notice to the Public of Reexamination Certificate – Publication of a reexamination certificate is announced in the Official Gazette. [MPEP 2691]