Expedited Examination Programs of IP Offices

Australia

In Australia, patent applicants can request expedited examination of an application for a standard patent in the circumstances outlined below.

Currently it can take more than a year in some technology areas from the submission of an examination request for the examination process to begin. Accelerating the examination process reduces this waiting time, usually to between four and eight weeks. Expedited examination can be helpful if an applicant is seeking to enforce patent rights, and to inform commercial decisions.

Eligibility for expedited examination will depend on the circumstances of the case in question. The Australian Patents Regulations provides that the Commissioner of Patents may expedite examination if reasonably satisfied that:[1]

- it is in the public interest
- there are special circumstances that make it desirable.

An applicant must provide reasons why an application is eligible for expedited examination. Without limiting the circumstances that the Commissioner may consider justify expedited examination, reasons currently include:

- the invention is in the field of green technology
- the applicant is a small or medium enterprise
- the claims of the invention have been found acceptable by certain patent offices under the Global Patent Prosecution Highway program, or the IP Australia-European Patent Office Patent Prosecution Highway program
- an applicant needs a granted patent in order to commercialise or license out their invention
- an applicant is concerned that their invention may be infringed and wants to commence infringement proceedings.

Expedited examination can be requested at any time following the filing of the patent application and there is no additional cost associated with expedited examination.

[1] Australian Patent Regulations 1991 (Cth) r 3.17.