



USPTO DESIGN DAY 2008:

Designing Tomorrow

FORWARD THINKING
ORNAMENTAL
CUTTING EDGE
novel
distinct
patentable
creative
imaginative
marketable
INNOVATIVE



Get Your Design Patent Fast!

Accelerated Examination

And

Expedited Examination

Robert M. Spear

Design Patent Specialist,

TC2900 USPTO



Fast Patents!

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- Accelerated examination applications are special cases under 37 CFR 1.102(d)
- Granted by petition

- Expedited examination applications are special cases under 37 CFR 1.155
- Granted by request



Accelerated Examination

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- Special examining procedure, see MPEP 708.02.VIII. and 708.02(a)
- Design applications must also comply with 37 CFR 1.151, 152, 153 & 154
- Objective: to arrive at final disposition within 12 months of filing



MPEP 708.02(a)F.: The 12-month goal is achieved if...

- Notice of Allowability
- Final Office action
- Abandonment

...Final disposition may occur after 12 months.



Petition Requirements

1. Petition to make special under accelerated examination program
2. Fee (37 CFR 1.17(h))
3. Non-reissue utility or design case
4. Filed electronically
5. Complete application under 37 CFR 1.51
6. Willing to elect without traverse
7. Willing to conduct phone interview
8. State that pre-examination search was done
9. Include accelerated examination support document.



Pre-examination Search (MPEP 8.02(a)I.H.)

- US Patents & patent application publications
- Foreign publications
- Non-patent literature
- Directed to the claimed invention
- Encompass all features of the claims



Pre-examination Support Document

1. IDS citing references most closely related
2. Identify all limitations disclosed in references
3. Detailed explanation of how each claim is patentable over the reference
4. Concise statement of the utility of the invention (except in design cases)
5. Showing where each limitation finds support under 35 USC 112/1st paragraph
6. ID references disqualified under 35 USC 103(c)



Accelerated Examination

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- If the application is not complete, petition will be denied (MPEP 708.02(a)VIII.C.)
- If the application is deficient, petition will be dismissed; applicant has a single, 30-day opportunity to perfect petition



Accelerated Examination

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....All for the low price of **\$130.00** (4/14/08)



Expedited Examination =

Rocket Docket



Expedited Examination

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“...Intended to fulfill a particular need by affording rapid design patent protection that may be especially important where marketplace conditions are such that new designs on articles are typically in vogue for limited periods of time.”



Expedited Examination

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- 37 CFR 1.155 & MPEP 1504.30
- **\$900.00** (37 CFR 1.17(k)) plus
- **\$210/\$105** basic filing fee (37 CFR 1.16(b))



Expedited Examination

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1. Request for Expedited Examination under 37 CFR 1.155 (Form PTO/SB/27)
2. Application is complete (37 CFR 1.154)
3. Drawings comply with 37 CFR 1.84
4. Pre-examination search...



Pre-examination Search

1. List of the field of search (e.g., US class and subclasses)
2. US patent documents
3. Foreign documents
4. Non-patent literature



Expedited Examination

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- Can be mailed, hand delivered or e-filed
- For initial filing of papers only:

**Mail Stop Expedited Design
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

- Thereafter fax to
“Special Procedures Submission”



Expedited Examination

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- All processing is expedited from the date the request is granted (including appeal)
- Streamlined “filing-to-issuance”, not just while on examiner’s docket like accelerated examination



Accelerated Examination Applications

- 30 Design applications filed since the beginning of the program in 2006.
- 7 Petitions have been granted.
- 2 Applications have been allowed
- 1 has issued: 6 months, 3 days.



Pendency - Designs

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	<u>2007</u>	<u>2008</u>
Filing to First Action	11.7 mos.	<u>10.4 mos.</u>
Filing to Allowance	12.6 mos.	<u>11.6 mos.</u>
Filing to Issue	18.3 mos.	<u>17.0 mos.</u>

Source: PALM2B41-PR3A Patent Business Area Statistics - Fiscal Year 2007-2008



Comparison: AE & Rocket Docket

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All applications in 2007: 26,626 were filed

25,819	were allowed in an average of	12.6 months
24,300	issued in an average of	18.3 months

Rocket Docket applications: In 2007,

532	were allowed in an average of	4.1 months
478	issued in an average of	9.2 months

445	were allowed on 1st action	
	Allowed in an average of	3.1 months
	Issued in an average of	8.0 months

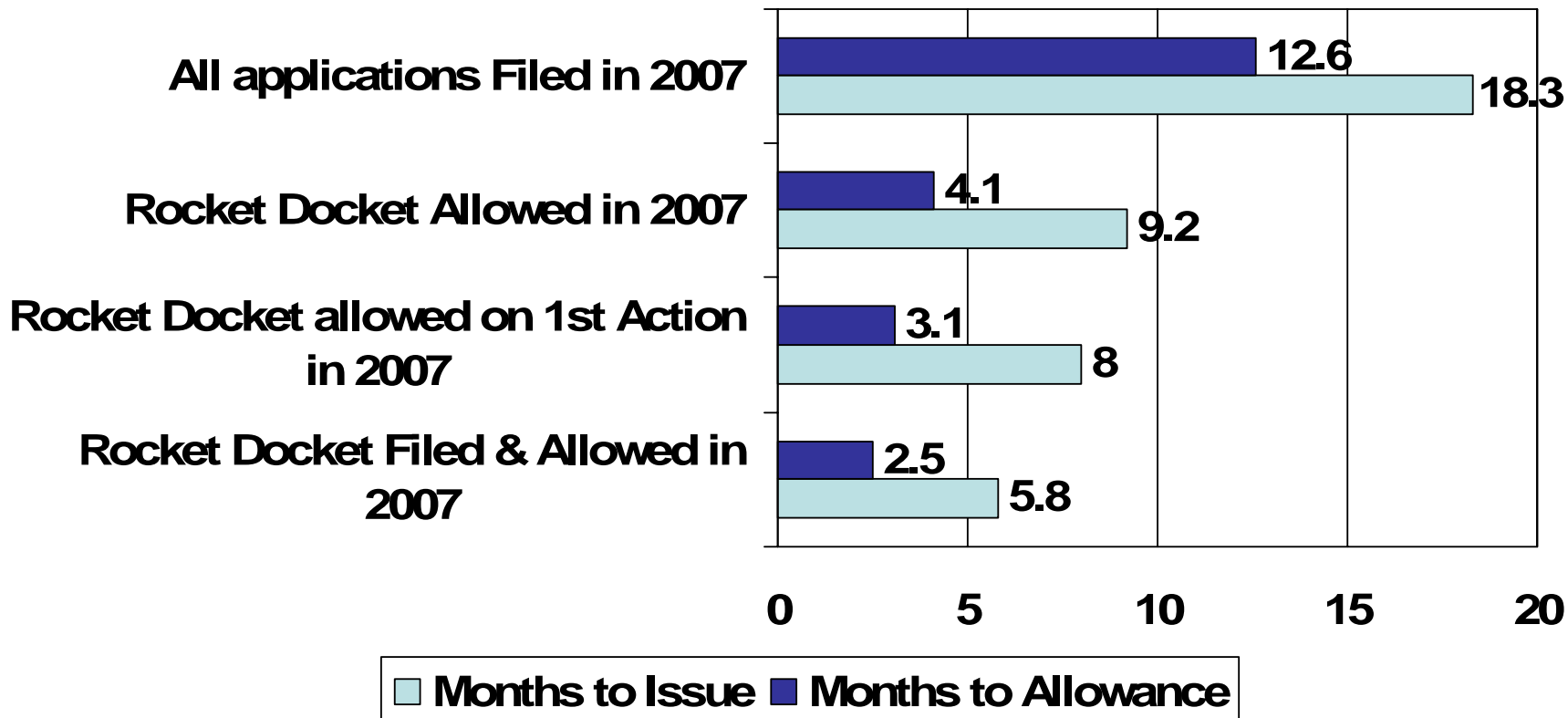
308	were filed in 2007. Of those:	
267	were allowed in an average of	2.5 months
231	issued in an average of	5.8 months

Source: PALM2B41-PR3A Patent Business Area Statistics - Fiscal Year 2007-2008 and EXPO3109-PR2 Patent Business Area Statistics



Comparison: AE & Rocket Docket

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Source: EXPO3109-PR2 Patent Business Area Statistics and PERFORMANCE AND ACCOUNTABILITY REPORT: FISCAL YEAR 2007



- **Search Templates Home**

<http://www.uspto.gov/web/patents/searchtemplates/searchtemplates.htm>

- **Search Templates by Class**

<http://www.uspto.gov/web/patents/searchtemplates/class.htm>

The background of the slide features a close-up, slightly blurred image of the American flag waving. The stars and stripes are visible, with the red and white stripes curving across the frame. The overall color palette is dominated by the blue of the flag's field and the white of the stars, with the red stripes providing a strong contrast.

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