

**UNITED STATES
PATENT AND TRADEMARK OFFICE**



Patent Public Advisory Committee Quarterly Meeting

After Final Programs

Dan Sullivan

Director, Technology Center 1600

Jerry Lorengo

Director, Technology Center 3700

February 1, 2018

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Overview

- Recap of After Final programs
- After Final program statistics

Traditional After Final Practice

- A response filed under 37 CFR §1.116
- Can include remarks, amendments or both
- Option to request an interview consistent with MPEP 713
- Examiners make determination whether or not to enter amendments

After Final Consideration Pilot (AFCP) 2.0*

- **A response filed under 37 CFR §1.116, which includes:**
 - a request for consideration under the pilot, and
 - an amendment to at least one independent claim that does not broaden the scope of the independent claim in any aspect
- **Authorizes additional time for examiners to search and/or consider responses after final rejection, and to schedule and conduct an interview**
- **Examiners use their professional judgement to decide whether the response can be fully considered under the program**



Pre-Appeal

- **A request for a panel of examiners to formally review the legal and factual basis of the rejections prior to the filing of an appeal brief**
 - Must file the request with the filing of a notice of appeal in compliance with 37 CFR 41.31 and before filing of an appeal brief
 - Arguments may not exceed five pages
 - Request may not include amendments
- **Consideration by the panel of the merits of each ground of rejection for which appeal has been requested**
- **Based upon panel outcome, a written decision is issued as to the status of the application, with a determination if an issue for appeal is present in the record**

Post Prosecution Pilot (P3)*

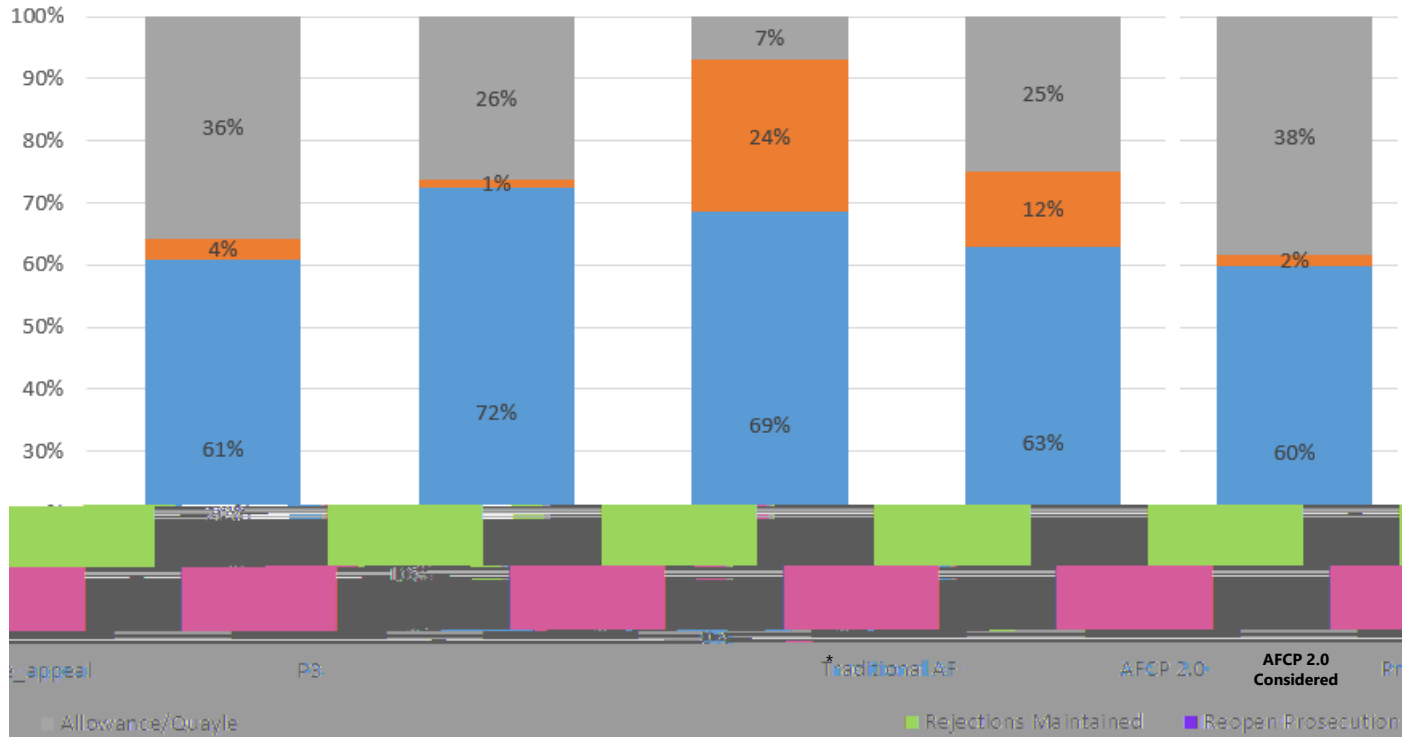
- **A response filed under 37 CFR §1.116, which included:**
 - P3 request form with a statement that the applicant was willing and available to participate in a conference with a panel of examiners,
 - no more than five pages of arguments, and
 - optionally, a non-broadening claim amendment
- **Submissions were reviewed by a panel consisting of the examiner of record, the examiner's supervisor and a third party having expertise in the issue to be considered**
- **Applicant was informed of the panel's decision in writing, with one of three outcomes indicated:**
 - Final Rejection Upheld
 - Allowable Application
 - Reopen Prosecution



*Ran from July 11, 2016 through January 12, 2017
Submissions were limited to 200 per Technology Center

AFTER FINAL PROGRAM OUTCOMES

July 11, 2016-January 12, 2017

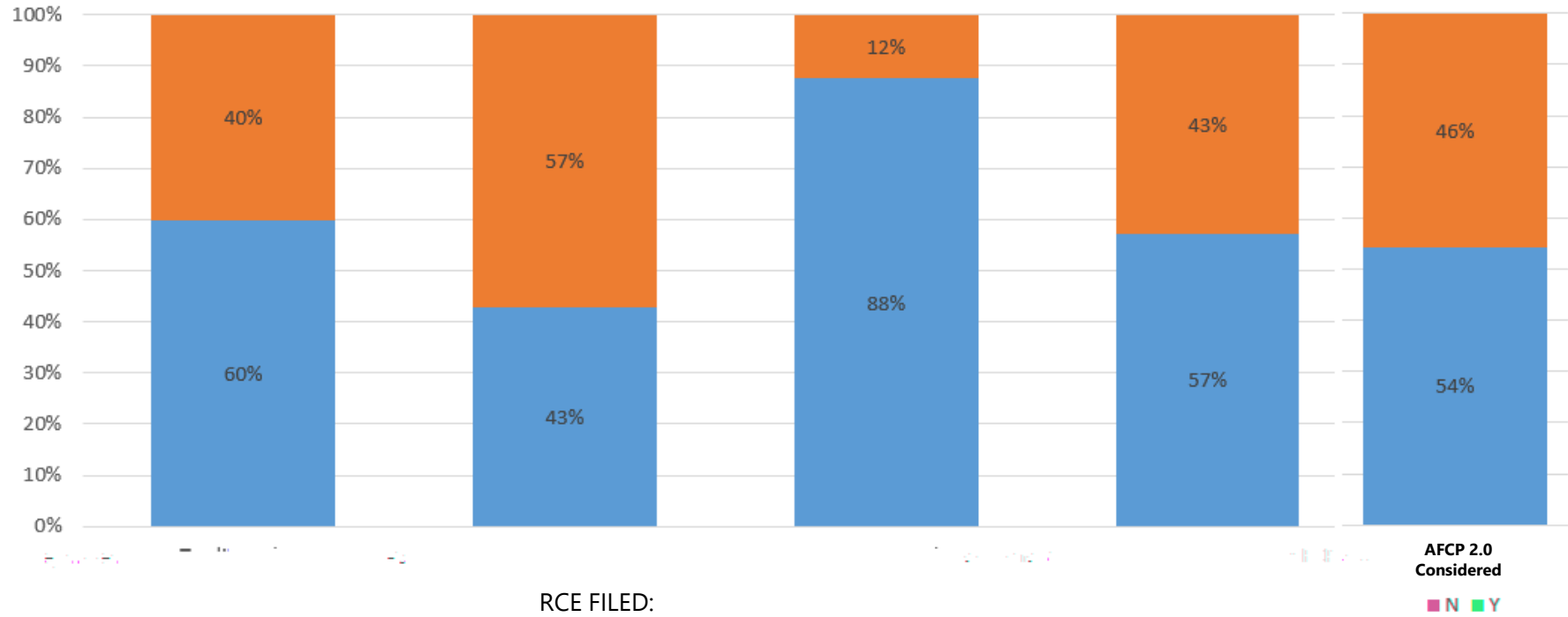


*Panel decision



SUBSEQUENT RCE FILING

July 11, 2016-January 12, 2017



TIME INVESTMENT

July 11, 2016-January 12, 2017

Program	Time Categories	Additional Hours	# of Cases	Additional Hours per Case
Traditional AF	Standard Prosecution	0	43725	0.0
Pre-Appeal	Examiner claimed time	4616	4587	3.0
	Estimated hours of 2 Conferees (SPE + SPE/Primary)	9174		
AFCP 2.0	AFCP 2.0 interview time:	13580	23712	2.4
	AFCP 2.0 consideration time:	42179		
P3	P3 examiner time:	4182	1552	4.7
	Conferee time estimated:	3104		

Questions and Comments

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