

When an Applicant is faced with a final rejection of the claims before the USPTO, it may appear that examination has drawn to an end. Rather, the title is deceiving. It is yet another stage of examination that presents an Applicant with various options going forward. Some of these options have been around for some time, while others reflect efforts by the USPTO to assist Applicants with cost-effective options to complete examination in a more compact, cost-effective and efficient manner.

In the presentation below, options for responding to a Final Office Action include:

- Response after Final Office Action, including Request for Reconsideration
- After Final Consideration Pilot Program (AFCP) 2.0
- Request for Continued Examination (RCE) with submission
- Notice of Appeal and Pre-Appeal Brief Conference
- Appeal
- Post-Prosecution Pilot Program (P3)
- Continuation or Continuation-in-part application
- Abandonment

When receiving a Final Office Action, an Applicant should consider whether the finality of the rejection is proper, as the Examiner is governed by requirements on establishing finality of a rejection.

Each option carries with it different considerations including timing, costs, interaction with Examiners, requirements and limitations, duration of procedures, and decisions by the USPTO. These considerations should be made at least in part with the Examiner in mind, including the impact on the time allotted for an Examiner to consider the issues and the USPTO Examiner's quota system. Most importantly, these considerations should be made with the Applicant's interests in mind, as the options have an impact on cost, effectiveness and results.

These issues and the options are discussed more fully in this presentation, along with flow

## Overview on After Final Practice at the USPTO by Justin Cassell

charts showing the Applicant options, Office Procedures, and possible results to each procedure.

### **Overview of After Final Practice at the USPTO- Justin Cassell**