Straight from the horse's mouth: How the USPTO suggests getting better patents, faster.

by Paul Norton

Patents are great. It doesn't matter if your client is a solo inventor, an early-stage startup, or a large corporation. Patents add value, and every client wants them. But as patent practitioners know all too well, the patent process can be painful. It takes, on average, a little more than two years from start to finish and often costs tens of thousands of dollars. To top it all off, there's a chance your client invests their time and money and have nothing to show for it in the end. After all, about a third of patent applications never mature into issued patents.

So how do you increase your chances of consistently being in the happy two-thirds who get a patent? Focus on quality work. I just finished a three day workshop put on by the USPTO that shed some light (more like waved around a giant spotlight) on how patent practitioners can decrease prosecution times and increase the chances of moving patent applications towards allowance. The take home message: quality in, quality out.

It all starts with a well-drafted application. Examiners at the USPTO have to be able to figure out by reading the patent application what the problem is that's being solved and the inventive thrust of the solution. That seems like it shouldn't be a problem, right? It made sense to the patent attorney when it was submitted; it should make sense to everybody else. Not necessarily. From the USPTO's perspective, the norm is to receive applications that are poorly drafted and ambiguous, especially about the inventive concept or even to what technological field the invention applies. If the Examiner can't figure out what's going on, their first Office Action probably isn't going to seem particularly relevant. That means more time and added prosecution costs.

The solution: submit quality patent applications. The inventor should be able to read the patent application and point to places in the application where they clearly see their invention reflected, preferably in the context of solving a problem in the relevant art. In the same breath, if the inventor doesn't understand something in the application, chances are Examiners at the USPTO won't understand it either. The patent applications needs to make sense to more than just its author. Submit a quality patent application, and get a quality Office Action in return. A quality Office Action will hone in on the substantive issues quickly

and likely result in decreased prosecution times and cost.

The next big step to better, faster patent prosecution is to work ***collaboratively*** with the Examiner ***early*** **and** ***often***. If you're stuck with a poorly drafted application, talking with the Examiner is imperative. Get them on the right track so the application can move towards a final disposition. Otherwise, you (and the Examiner) are set on a long, frustrating path of confusing Office Actions and flabbergasted Office Action responses. Even with a quality application, though, the USPTO stresses working with the Examiner before and between Office Actions, and they strongly encourage that patent attorneys be respectful about it. The Examiners are not your enemy. They have a job to do, just like we, as patent attorneys do, and being adversarial isn't productive. Talking with them respectfully about the application, the claims, and the cited art will clarify aspects of the invention on *both* sides and make it clear what the applicant can do, if anything, to move the application towards allowance. Open your mind to their perspective. Help them help you.

Remember: quality in, quality out. Draft a high-quality, meaningful patent application. Have high-quality, collaborative interactions with the Examiners early and often. You will end up with a better patent in the end and will do so faster and with less expense. That means a happy client, and happy clients are what good practices are built on.