


UNITED STATES
PATENT AND TRADEMARK OFFICE

A blurred background image showing a close-up of a person's face, focusing on the eyes and mouth. The image is out of focus, with soft colors and highlights.

Patent Quality Chat: Opportunities for Examiner Interviews: First Action Interview Pilot and General Practice

Patent Quality Chat
Webinar Series 2016 (8 of 11)
July 12, 2016



To send in questions or comments during the webinar, please email:

PatentQualityEventParticipationBox@uspto.gov



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A screenshot of the USPTO website. The top navigation bar includes the USPTO logo, the text "UNITED STATES PATENT AND TRADEMARK OFFICE", and links for "About Us", "Careers", and "Contact Us". A search bar is also present. Below the navigation bar are tabs for "Patents", "Trademarks", and "Learning and Resources", along with a "Quick Links" dropdown menu. The main content area features a large blue banner with the text "First time here? Let us help you find your bearings." and a "Get Going" button. Below the banner, there are sections for "Learn About the Process" with sub-sections for "Patents" (General Information Concerning Patents) and "Trademarks" (Trademark Basics). A red circle highlights the "Patents & Trademarks Initiatives" section, specifically the "Enhanced Patent Quality Initiative" link, which includes the text "Learn about USPTO efforts to increase patent quality." The USPTO logo is visible in the bottom right corner of the screenshot.

Email questions to **PatentQualityEventParticipationBox@uspto.gov**

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Home / Patents / Enhanced Patent Quality Initiative Share | Print

Enhanced Patent Quality Initiative



High-quality patents enable certainty and clarity of rights, which fuels innovation and reduces needless litigation. To ensure we continue issuing high-quality patents well into the future, we established the **Enhanced Patent Quality Initiative (EPQI)**. We are strengthening work products, processes, services, and how we measure patent quality at all stages of the patent process.

2016 Patent Quality Chats
NEXT: July 12, 12-1 pm ET

Post-Prosecution Pilot
After final pilot program aimed at reducing the number of issues taken up on appeal.

Updates

- **Post-Prosecution Pilot (P3)**, which launched on July 11th, explores a new after final program that combines features of the Pre-Appeal Brief Conference and After Final Consideration 2.0 pilot programs and adds in new features requested by our stakeholders. For more information, please visit the [P3 webpage](#).
- The **Post Grant Outcomes** Program launched a pilot aimed at putting related AIA trial proceedings, including their prior art, in front of the examiners of pending related applications. More information is on the [Pilot webpage](#).

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Patent Quality Chat: Opportunities for Examiner Interviews: First Action Interview Pilot and General Practice

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First Action Interview (FAI) Pilot Program



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First Action Interview (FAI) Pilot Program

- Promotes personal interviews prior to issuance of a first Office action on the merits
- Advances examination of applications once taken up in turn
- Facilitates resolution of issues for timely disposition of an application
- Gives applicants more options in regards to the amount of notice and procedure needed



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FAI Pilot History

Original Pilot

- **4/28/2008 – 11/1/2008**
- In two small, computer technology areas

Enhanced Pilot

- **10/1/2009 – 3/31/2011**
- In one technology area in **each** Technology Center

Full Pilot

- **5/15/2011 – present**
- All technology areas are eligible



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FAI Pilot Program Requirements

An application suitable for the FAI pilot MUST:

- be a non-reissue, nonprovisional utility application under 35 U.S.C. 111(a) or national stage application under 35 U.S.C. 371
- contain three or fewer independent claims and twenty or fewer total claims
- not contain any multiple dependent claims
- claim only a single invention and
- not have a first Office action on the merits as of the date Applicant requests participation in program



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FAI Prosecution Begins: Pre-Interview Communication

The examiner will:

- 1) Follow current restriction policy and practice
- 2) Conduct a prior art search
- 3) Follow current policy and practice if a determination of allowability is made
- 4) Issue a Pre-interview Communication (PTOL-413FP) setting a one month (30 day) time period to request or decline an interview
 - o The time period to respond to the Pre-Interview Communication may be extended for one additional month (30 days)



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Pre-Interview Communication (PTOL-413FP)

Pre-Interview Communication
(For use in the First Action Interview Pilot Program)

Application No. _____ Applicant(s) _____
Examiner _____ Art Unit _____ Page 1 of _____

The MAILING DATE of this communication appears on the cover sheet with the correspondence address — THE SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ONE MONTH OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. This time period for reply is NOT extendable under 37 CFR 1.136(a)(1)(i).

To avoid abandonment of the application, applicant must, within this time period for reply, file:

- (1) A letter requesting (a) to have a first-action interview, or
- (2) A completed Applicant Initiated Interview Request Form (PTOL-413A) accompanied by a proposed amendment or arguments.

Inventor participation in the Pre-First Action Interview is encouraged if it would expedite resolution of the application.

Disposition of Claims

3 Claim(s) _____, were pending in the application.
 3a) Of the above claim(s) _____, were withdrawn from consideration.
 4 Claim(s) _____, appear to be allowable.
 5 Claim(s) _____, appear to be rejectable.
 6 Claim(s) _____, may be subject to an objection.
 7 Claim(s) _____, are subject to restriction and/or election requirement.

Application Papers

8 The specification may be subject to an objection by the Examiner.
 9 The drawing(s) filed on _____, date: a accepted or b may be subject to an objection by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.12 (d).
 10 The oath or declaration may be subject to an objection by the Examiner.

Priority under 35 U.S.C. § 119

11 Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) As to Some * None of:
 1 Certified copies of the priority documents have been received.
 2 Certified copies of the priority documents have been received in Application No. _____.
 3 Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 *See the attached detailed Office action for a list of the certified copies not received.

Contact Information
 Examiner's Telephone Number: _____
 Examiner's Typical Work Schedule: _____
 Supervisor's Name: _____
 Supervisor's Telephone Number: _____

Attachment(s)

1 <input type="checkbox"/> Notice of References Cited (PTO-802)	4 <input type="checkbox"/> Interview Summary (PTO-413)
2 <input type="checkbox"/> Notice of Drawings' Patent Drawing Review (PTO-946)	5 <input type="checkbox"/> Prior Art/Mail Date
3 <input type="checkbox"/> Information Disclosure Statement(s) (PTO-550)	6 <input type="checkbox"/> Notice of Informal Patent Application
PowerView/Mail Date: _____	7 <input type="checkbox"/> Other

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PTOL-413FP (Rev. 06-07)

Pre-Interview Communication Part of Paper No. Mail Date 20202013

Pre-Interview Communication
(For use in the First Action Interview Pilot Program)

Application No. _____ Applicant(s) _____
Examiner _____ Art Unit _____ Page 2 of _____

Notification of Potential Rejection(s) and/or Objection(s)

#	Claim(s)	Reference(s) (if applicable)	Statutory Basis	Brief Explanation of the Potential Rejection

Expanded Discussion/Commentary

DATE: _____ Examiner Signature: _____ Primary Examiner Signature: _____

37 Patent Quality Chat
PTOL-413FP (Rev. 06-07)

Pre-Interview Communication Part of Paper No. Mail Date

PTOL-413FP Example

Notification of Rejection(s) and/or Objection(s)				
#	Claim(s)	Reference(s) (if applicable)	Rejection Statutory Basis	Brief Explanation of Rejection
1	1-8		101	Claim 1 recites a binary translator with various components. The binary translator as claimed is software per se and software is not considered patentable subject matter. Claims 2-8 depend on 1 and do not include hardware so as to overcome the rejection.
2	1-8		112, 1 st	Claim 1 recites the limitation of "replace disabled legacy binary instructions with native instructions." However, according to the specification, on page 6, lines 1-3, "...used to disable...insert new instruction without (see continuation below)
3	1-5, 7-8	U	102(b)	Claim 1 (Figure 1, 1 st para, 3 rd para, Section 3.1 Components, 4 th paragraph—note the claimed "processor means" is interpreted as the CPU in figure 1; 2 (Fig. 1); 3 (section 3.1, 4 th para); 4 (section 4.2, para 9—note) (see continuation below)
4	6	U,V	103(a)	U does not disclose said native instruction processor as claimed. V discloses at section 2.1, 2 nd para. As one would want better code for hot spots to improve performance (see V, Section 2.1), it would have been (see continuation below)

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Response to Pre-Interview Communication

Applicants properly respond to the Pre-Interview Communication by filing one of the following:

1. Request not to have the interview
 - Acts as removal from the Pilot
 - FAI-FAOM will be mailed (PTOL-413FA); extensions of time are limited
2. Request not to have the interview AND submit a reply in accordance with 37 CFR 1.111
 - Pre-Interview Communication (PTOL-413FP) serves as FAOM
3. "Applicant Initiated Interview Request" form (PTOL-413A) along with a proposed amendment and/or arguments via EFS-Web, and conduct the interview within 60 days from the filing of the Applicant Initiated Interview Request



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FAI Pilot Interview

- Conducted in accordance with current policy and practice (See MPEP 713) for the purpose of:
 - Assisting the examiner in obtaining a better understanding of the claimed invention
 - Establishing the relevant state of the art
 - Discussing all relevant prior art teachings
 - Focusing on what claimed features establish patentability over the prior art
 - Discussing proposed amendments or remarks



- ❖ Applicant may request waiver of the First Action Interview-Office Action and enter a proposed amendment that complies with 37 CFR 1.111



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Interview → Agreement on Allowability

The examiner will:

- Document the substance of the interview and reasons for allowance on an Interview Summary form (PTOL-413)
- Note and attach all relevant amendments and/or arguments
- Generate a Notice of Allowability (PTOL-37), if applicant requests an unofficial, courtesy copy
- Attach a copy of a completed copy of the Applicant Initiated Interview Request form
- Make all documents and forms of record
- Perform an updated search and interference review before issuing an official Notice of Allowability



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Interview \neq Agreement on Allowability

The examiner will:

- Document all requirements, objections, and rejections in a FAI Office Action form (PTOL-413FA)
- Document the substance of the interview on an Interview Summary form (PTOL-413)
- Note and attach all relevant amendments and/or arguments
- Attach a copy of a completed copy of the Applicant Initiated Interview Request form
- Make all documents and forms of record
- Upon request, provide unofficial, courtesy copies



- ❖ Upon request for a waiver of the FAI Office action, enter a proposed amendment that complies with 37 CFR 1.111

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Post-FAI Interview Process

- Applicants must timely respond to all outstanding issues in accordance with current policies and practice
- Applicants must make the substance of the interview of record when filing a timely response
- Examiners must proceed in accordance with current examination procedures and also ensure the substance of the interview made of record by applicants is accurate



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How Well Does FAI Work?

Results
as of
June 6, 2016



Total Overall	Original	Enhanced	Full Pilot (since 5/16/11)	
7278	502	6776	6082	Applicants have joined the pilot program
400	392	8	3	Pre-interview Communications (PFA OA) have been mailed
4201	12	4189	3708	Pre-interview Communication (MPICO) have been mailed
4417	390	4027	3563	Interviews have been conducted
2257	294	1963	1723	First Action Interview Office Actions have been mailed
618	23	595	507	Final Rejection mailed with No FAI Office action
4177	345	3832	3325	Allowances
1247	62	1185	1046	Allowed after pre-interview communication but before FAI office action
2422	257	2165	1835	Allowed after the FAI office action
508	26	482	444	Allowed without/before pre-interview communication
1275	76	1199	1040	First Action On the Merits without a Pre-Interview Comm
25	3	22	17	Quayle Actions
29.6%	18.2%	30.6%	31.2%	First Action Allowance rate

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More Information about FAI

- For more details about FAI, including eligibility information and TC POCs, visit <http://www.uspto.gov/patent/initiatives/first-action-interview/full-first-action-interview-pilot-program>
- For Notice/Legal questions, contact Joseph Weiss in OPLA 571-272-7759 or email first.action.interview@uspto.gov
- For EFS-Web questions contact the Electronic Business Center (EBC) at 866-217-9197



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General Interview Practice



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General Interview Practice @ USPTO

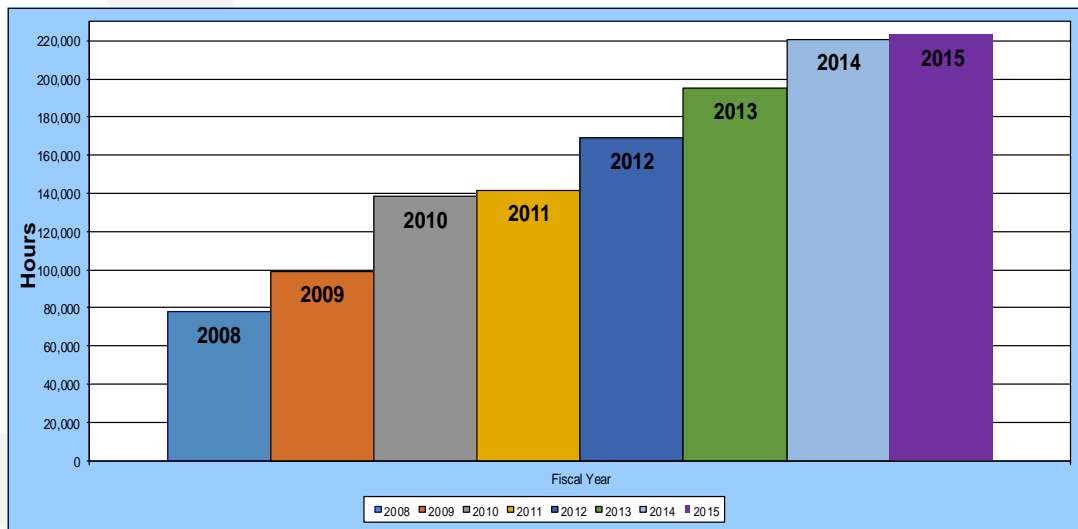
- Overview of Interviews
- Enhancements to Interview Practice
- Discussion of USPTO tools



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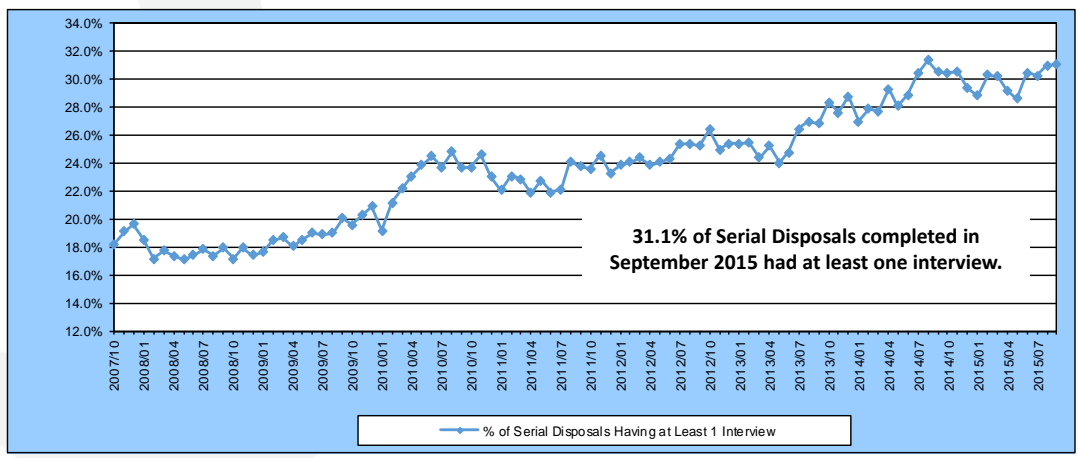
Interview Time: FY 2008 – FY 2015



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Percent of Serial Disposals Having at Least One Interview (FY 2008- FY 2015)



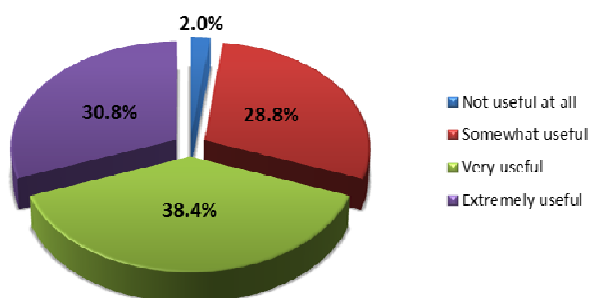
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Interview Survey Results

- For advancing prosecution, Applicants were very positive.

How effective do you feel an interview is in advancing prosecution?



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Enhancements to General Interview Practice



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Automated Interview Requests (AIR)

<http://www.uspto.gov/patent/laws-and-regulations/interview-practice#step1>

Interview Practice

Interviews enable Applicants and Examiners to discuss and resolve issues and are an effective tool to advance the prosecution of an application. The USPTO encourages Examiners to take a proactive approach to examination by reaching out and engaging our stakeholders in order to shorten prosecution.

- 1 USPTO AIR
- 2 Video Conference
- 3 TC Interview Specialist
- 4 Policy and Guidance
- 5 Training and FAQs
- 6 Survey
- 7 Federal Register Notice
- 8 Contact Us

USPTO AIR



A new web-based tool that allows Applicants to schedule an interview with an Examiner for their pending patent application.
Complete the form.

Video Conference

Video conferencing with a patent examiner gives you the ability to have face-to-face meetings, no matter the location of the examiner or attorney. Visit **Video Conferencing and Collaboration** for instructions on how to join a USPTO-hosted video conference, and information and links on how to use WebEx collaboration tools, including audio/video conferencing and file sharing. In this short video, attorneys share some advantages of video conferencing interviews.



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AIR Form

➤ New web-based tool that permits Applicants to schedule an interview with an examiner

USPTO Automated Interview Request (AIR) Form

Automated Interview Request Form (AIR) Form
Approved for use through 10/16/2016
Approved for use through 10/16/2016
US Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Enter the required information below. If you are an applicant, register to communicate with examiners on the USPTO website.

* This paper requesting to schedule and/or conduct an interview is appropriate because:
 I have previously submitted an authorization for internet communications in a patent application. See Form 56/0439.
 I am concurrently submitting an authorization to communicate via the Internet. See Form 56/0439.
 This submission is requested to be accepted as an authorization for this interview to communicate via the Internet. Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with the undersigned concerning scheduling of the interview via video conference, instant messaging, or electronic mail, and to conduct the interview in accordance with office practice including video conferencing.

* I understand that a copy of this communication will be made of record in the application file.

*Name(s):

*Signature: (See 37 CFR 1.405(2) (Name))

Registration Number: (5 Digit Numeric Only: 12345)

*U.S. Application Number: (8 Digit Numeric Only: 12345678)

*Continuation Number: (4 Digit Numeric Only: 1234)

*E-mail Address:

*Phone Number: (10 Digit Numeric Only: 0123456700)

*Proposed Date and Time of Requested Interview must be more than one (1) week after today.
(Note: Confirmation of actual interview date and time will be arranged between examiner and requester)
MM/DD/YYYY Time: Eastern Time

*Proposed type of interview: Please select an interview (examiners working remotely will offer video conference or telephonic interviews)

* I am the applicant or applicant's representative for this application.

*Indicate fields that are required

The collection of information is required by 37 CFR 1.002. The information is required to allow or restrict communication by the public which is processed and by the USPTO to process an application. Confidentiality is provided by 37 CFR 1.002, 37 CFR 1.003, and 37 CFR 1.004. The USPTO is authorized to make, disseminate, copy, and distribute the information for the USPTO. This will be shared with the individual case file contained in the record of this case. You may request to be added to the list of individuals registered for holding the records should be sent to the Office of Information Management, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 5050, Alexandria, VA 22304-5050. (37 CFR 1.002, 37 CFR 1.003, 37 CFR 1.004).



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Video Conferencing and Collaboration

- Internet Usage Policy has been updated to permit oral authorization for video conferencing tools
- MPEP § 502.03 now allows a verbal request to authorize a video conferencing, instead of submitting a written request.
- **Examiners set up video conferencing** for interviews using WebEx, a web-based service that you can use it from any computer (Windows, Mac, Linux, or Solaris) with no software needed.



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TC Interview Specialists

- Subject matter expert on interview practice and policy in each Technology Center
- To assist Examiners and Applicants in facilitating effective interviews
- The list of TC Specialists can be found here:
<http://www.uspto.gov/patent/laws-and-regulations/interview-practice/interview-specialist>



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Public Interview Rooms

- Video conference rooms on each USPTO campus
- Designated for Applicants to use to connect and collaborate with examiners that are working remotely or at a different USPTO campus



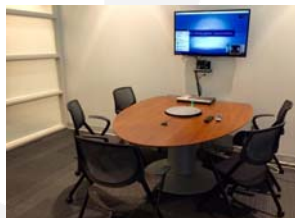
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Public Interview Rooms, cont.

- Must be reserved by Examiner at least two business days prior to interview.

Video conference room examples:



Alexandria



Dallas



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One-On-One Training

- Applicants interested in more detailed WebEx training may request a one-on-one WebEx training session with an interview specialist.
- Email your request to ExaminerInterviewPractice@USPTO.gov with some possible dates and times.
- Please give at least one week notice.



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Interview Tools For Video Conferencing



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WebEx Basics

- You need a computer and a high-speed Internet connection is recommended.
- WebEx is a web-based service, so you can use it from any computer (Windows, Mac, Linux, or Solaris).
- No software needs to be downloaded or purchased.
- A telephone will be used to join the audio component of the meeting while a video camera may be used as part of the visual component.



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Click on the WebEx Link

1. Examiners set up the WebEx online meeting and send an email invitation to Applicant
2. At the appointed time, Examiners start the meeting
3. Applicants open the email containing the WebEx online meeting invitation and click on the link to join the **visual** component of the online meeting.

To join the online meeting (Now from mobile devices!)

1. Click the following link: [Join the meeting](#)
2. If requested, enter your name and email address.
3. If a password is required, enter the meeting password:
4. Click "Join".

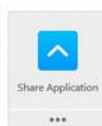
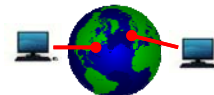


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Add Audio to the WebEx Meeting

- Telephone is used for the audio component of the meeting
- WebEx can be used to host an international WebEx interview.
- An international Applicant should dial-in to join the audio component by using the **"I will Call In"** option.



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Verbal Authorization for Video Conferencing

Change to Internet Usage Policy to Permit Oral Authorization for Video Conferencing Tools

- Policy has been updated to make it easier for Applicants to authorize the use of video conferencing tools to conduct examiner interviews.
- MPEP § 502.03 now allows a verbal request to authorize a WebEx interview, instead of submitting a written request.
- The verbal authorization is limited to the video conference interview and does not extend to other communications regarding the application.



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For More Information

➤ **Visit our website to find out more about:**

- USPTO Air form
- Video Conferencing
- TC Interview Specialist
- Policy and Guidance
- Training and FAQs

<http://www.uspto.gov/interviewpractice>

➤ Contact us via email at ExaminerInterviewPractice@USPTO.gov



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Let's Chat about Opportunities for Examiner Interviews: First Action Interview Pilot and General Practice

Wendy Garber

Director, Technology Center 3700

Timothy Callahan

Director, Technology Center 2400



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Thank you for joining us today!

Patent Quality Chat
Webinar Series 2016 (8 of 11)
July 12, 2016



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Next Patent Quality Chat:
Tuesday, August 9th
The Post-Prosecution Pilot:
A New After Final Collaboration Program



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