

From:
Sent: Sunday, March 07, 2010 9:15 PM
To: patent_quality_comments
Subject: Suggestion for quality metric

Dear Sirs:

An excellent quality metric would be the percentage of appeal briefs that are met with reopened prosecution. Most reopenings are not because of new arguments presented for the first time in a brief, because most briefs repackage what has been argued during prosecution. Instead, most reopenings are because SPEs typically do not get involved until the appeal conference, even when they've been signing out rejections by junior examiners. That is too late in the day for supervision to start if it is to be considered effective. Better quality depends on earlier supervisory involvement and you know this. There will always be a large number of very junior examiners and the job, being complicated, does not lend itself to instant mastery.

Furthermore, knowing how frequently prosecution is reopened is a needed management tool. I spoke with a Tech Center Director a few years about this topic and he told me that he "had no way of knowing" what percentage of appeals were met with reopenings in his group. Don't you think TCDs should know? I certainly do and so does every practitioner who engages in appellate practice within the PTO.

Regards, John L. Rogitz
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