

U.S. Patent and Trademark Office Implements New Pilot Program for National Stage Patent Applications

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The U.S. Patent and Trademark Office (USPTO) recently implemented the PCT Informed Examination Request (PIER) Pilot Program.¹ The PIER Pilot Program is effective for an initial term from April 9, 2026 to April 9, 2027, but may be extended at the discretion of the USPTO.

Under the PIER Pilot Program, the USPTO will select certain unexamined U.S. national stage patent applications and will issue a Requirement for Information for the selected patent applications. For the selected patent applications, the applicant will be required to indicate whether the applicant opts to: 1) Proceed with examination; 2) Delay examination for 12 months; or 3) Expressly abandon the application.

I. Applications Affected by the PIER Pilot Program

The PIER Pilot Program is limited to unexamined U.S. national stage patent applications originating from a PCT patent application. Applications selected for the PIER Pilot Program will be at the discretion of the USPTO. Patent applications filed directly with the USPTO and not as a national stage of a PCT application will not be affected by the PIER Pilot Program.

II. PIER Pilot Program Requirements

For U.S. national stage patent applications selected for the PIER Pilot Program, the USPTO will issue a Requirement for Information under 37 C.F.R. 1.105. The Requirement for Information will require the applicant to select one of the following options:

1. Proceed with examination
2. Delay examination for 12 months
3. Expressly abandon the application

The applicant will be given a two-month period to respond to the Requirement for Information. The two-month period may be extended up to six months from the issuance of the Requirement for Information with payment of corresponding extension of time fees. The USPTO will be issuing a new form to be used for responding to the Requirement for Information. A failure to timely respond to the Requirement for Information will result in the application becoming abandoned. Other than any extension of time fees incurred to extending the two-month response period for responding to the Requirement for Information, there are no official fees associated with the PIER Pilot Program.

¹ <https://www.federalregister.gov/documents/2026/04/09/2026-06903/pct-informed-examination-request-pilot-program>

III. Purpose of the Program

The USPTO indicates that the PIER Pilot Program is “designed to assess the inventory and efficiency impacts of requesting examination in view of applicable PCT international phase work products.”²

Several major patent offices require a request for examination to be filed in order for patent examination to proceed. The deadline to request examination under such examination request systems can be years after the application filing date. Changes in business priorities, changes in technologies, difficulties in examination at other patent offices, or various other considerations that occurred since application filing may prompt an applicant not to file a request for examination for a patent application. Such examination request systems can relieve the patent examination burden of a patent office by reducing the need for the patent office to examine patent applications that applicants are no longer interested in pursuing.

The USPTO does not have an examination request system, and instead, filed patent applications will automatically be examined on the merits. The PIER Pilot Program may be an early-stage assessment of the impacts of an examination request system on the USPTO.

IV. Considerations for Applicants

A. Respond to the Requirement for Information

For U.S. national stage patent applications selected for the PIER Pilot Program, a response to the Requirement for Information is necessary within two months, or within six months with extension of time fees, in order to avoid abandonment of the application. For U.S. national stage patent applications selected for the PIER Pilot Program, applicants should be aware that a response to the Requirement for Information is necessary within the allotted timeframe in order to continue pursuing the application. Applicants who receive a Requirement for Information under the PIER Pilot Program should consult with their U.S. registered patent practitioner to determine how best to respond to the Requirement for Information.

B. Patent Term Adjustment

U.S. Patents can have their terms extended due to examination delays at the USPTO. Opting to delay examination for 12 months in response to the Requirement for Information can reduce the amount of patent term adjustment available to a subsequently granted U.S. patent. Applicants should be aware that opting to delay examination for 12 months under the PIER Pilot Program can result in a corresponding reduction in patent term adjustment.

C. Express Abandonment

While limited refunds of search and excess claim fees may be available to applicants who expressly abandon their patent application of their own volition at an early stage, the USPTO indicates that such refunds are not available to U.S. national stage patent applications expressly abandoned in response to a Requirement for Information under the PIER Pilot Program.³ An express abandonment also forecloses any possibility of later reviving the U.S. national stage patent application. One benefit of expressly abandoning a U.S. patent application is avoiding publication of the application. However, avoiding U.S. application publication may have little relevance for U.S. national stage patent applications selected for the PIER Pilot Program, as the corresponding PCT application likely already published at the international stage. In many circumstances, even though an applicant is no longer interested in pursuing their U.S. national stage patent application, a more prudent course of action may be to allow the patent application to naturally

² *Id.*

³ *Id.*

lapse during examination rather than expressly abandoning the patent application. For applicants who receive a Requirement for Information under the PIER Pilot Program, and who are no longer interested in pursuing their U.S. national stage patent application, careful consideration and consultation with their U.S. registered patent practitioner should be made before proceeding with an express abandonment.

D. The USPTO is Not Bound by Findings at the International Stage

For applicants that receive an unfavorable ISR/WO at the international stage, the applicants should be aware that the USPTO is not bound by such findings. It is not uncommon for examination of a U.S. national stage patent application at the USPTO to substantially diverge from the prior art and opinions issued at the international stage. Applicants also have opportunities to amend a U.S. national stage application at the time of filing, before examination, and during examination. For applicants who receive a Requirement for Information under the PIER Pilot Program in view of an unfavorable opinion at the international stage, the non-binding nature of the findings at the international stage should be taken into consideration when determining whether to proceed into examination of the U.S. national stage patent application. In many cases, a valuable U.S. patent can still be obtained after an unfavorable finding at the international stage.

V. Conclusion

Applicants who file U.S. national stage patent applications should be aware of the PIER Pilot Program and the requirement to respond to the Requirement for Information that will be issued for U.S. national stage patent applications selected for the program. Applicants that receive a Requirement for Information under the PIER Pilot Program should consult with their U.S. registered patent practitioner to determine how best to respond to the Requirement for Information.



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