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EXPERT OPINION

The USPTO's PIER Pilot Program: A small change with potentially big patent implications

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In April 2026, the U.S. Patent and Trademark Office (USPTO) introduced a new pilot program, the PCT Informed Examination Request (PIER) Pilot Program. Unlike most pilot programs, though, PIER is not voluntary, and can significantly affect the term of patents issuing from applications selected for participation in the program.


Erica Hines

Pilot programs are common at the USPTO. They serve as temporary initiatives that allow the office to test new procedures, technologies, examination methods, or policy changes before deciding whether to adopt them permanently.

At first glance, the PIER Pilot Program may seem like just another pilot program. However, for applicants filing U.S. national phase patent applications (i.e., applications that enter the U.S. national phase from the international Patent Cooperation Treaty (PCT) system), PIER represents a meaningful shift in how and when decisions about patent prosecution must be made.

To understand the significance behind the deviation represented by PIER, it helps to start with how patent examination typically works in the United States as compared to some other jurisdictions.

In many jurisdictions outside of the U.S., examination does not automatically begin after an application is filed. Rather, an applicant must separately request examination, usually within a set deadline and often with an additional fee. In the U.S., on the other hand, examination of U.S. patent applications begins automatically. There is no separate step requiring an applicant to affirmatively request examination.

The USPTO must issue a first action on the merits (e.g., an office action, restriction requirement, or notice of allowance) within 14 months of when an application is filed, otherwise an application accrues patent term adjustment (PTA) time due to the USPTO's administrative delay.

Normally, a U.S. patent expires 20 years from its earliest filing date. However, because patent applications can spend years pending before the USPTO, Congress created PTA to compensate applicants for certain USPTO delays. PTA extends the 20 year patent term by one extra day for each day of qualifying USPTO delay. This helps to ensure that applicants do not lose patent life because of undue USPTO delay. So, when the USPTO fails to issue a first action within 14 months, an application begins to accrue PTA on a day-for-day basis until the USPTO issues such an action.

Many U.S. patent applications enter the US patent system from the international PCT system, which allows an inventor or company to seek patent protection in many countries through a single initial application. The PCT process is typically divided into two phases – the international phase, and the national phase. Upon application filing, the PCT application is in the international phase. It is examined by an international searching authority, which issues an International Search Report (ISR) and a Written Opinion (WO) assessing the potential patentability of the invention. By filing a PCT application, an applicant pays for a single application (instead of many separate foreign applications), receives an indication of whether its invention is patentable, and benefits from additional time to decide whether and where to seek patent protection. Typically, after 30 months from its earliest filing date, an applicant must decide in which of more than 150 PCT contracting states it wishes to enter the national phase. The application then enters the national phase in individual countries, such as the United States, where local examination begins.

Historically, regardless of PCT search results, the USPTO would proceed with examination once an application enters the U.S. national phase. The PIER Pilot Program changes that dynamic, at least for a subset of applications.

Under PIER, from April 2026 – April 2027 (which period could be extended), the USPTO will select certain national phase applications and will issue a Requirement for Information. This notice points to the international phase work already on file, including the ISR and WO, and asks the applicant to make an explicit choice about how to proceed. Applicants must respond by selecting

one of three options: (i) proceed with examination, in which case the application will be placed on an examiner's docket (as it already would have been, absent selection for participation in PIER); (ii) delay examination for up to twelve months; or (iii) expressly abandon the application. Failure to respond to the notice results in the application being deemed abandoned.

The USPTO's stated goal for the program is to improve efficiency and reduce backlog. The idea is that requiring applicants to make an explicit decision in light of existing information from the PCT international phase may reduce the number of applications that proceed to full examination unnecessarily. PIER thus appears to be an effort to push applicants into making an earlier "go or no-go" decision based on the PCT record, beyond the already-made decision to enter the U.S. national phase. The hope, from the USPTO's perspective, is that weaker or lower-value applications will drop out earlier, thus allowing examiners to focus on cases applicants actually intend to pursue.

In some ways, PIER facially resembles a request-for-examination system (such as that in Europe, Canada, Japan, South Korea, Australia, India, and China). However, there are critical differences.

The key difference is that under the PIER Pilot Program, unlike in true request-for-examination systems, applicants do not control whether they are subject to the program. The USPTO selects applications at its own discretion, and there is no mechanism to opt in or out. The timing is also different, as the requirement is issued after entry into the U.S. national phase rather than at a predictable stage in the process.

Further, predictability – or lack thereof – is a practical issue. Because the USPTO has not provided detailed criteria for how applications are selected, applicants cannot easily anticipate whether a particular case will be included. That makes it difficult to plan around the program in advance and instead requires applicants to be ready to respond if/when a notice arrives.

Some consider that PIER offers a measure of flexibility (for applications the USPTO selects for participation in the program) through the option to delay examination for up to twelve months. This could be useful in situations where market conditions are uncertain, where applicants are waiting for additional data or funding, or where they are aligning their strategy with business strategy or developments in their pending foreign patent applications. The benefit of such flexibility, however, is questionable, since applicants do not get to choose whether to opt into participation in PIER. Further, and significantly, that potential flexibility comes with substantial trade-offs in terms of potential patent term.

Critically, the USPTO considers the mailing of a Requirement for Information under PIER to satisfy its requirement to issue a first action on the merits within 14 months. This means that applications selected for inclusion in PIER may not benefit from additional patent term, even if the USPTO does not issue a substantive action within 14 months of the filing date. In practical terms, that means applicants could miss out on additional patent term without seeing corresponding progress on the merits. This is perhaps the biggest PIER criticism from patent practitioners so far.

Further, if an applicant receives a Requirement for Information and elects to delay examination by 12 months, the delay is treated as applicant delay, which counts against any PTA an application may accrue.

PIER thus introduces considerable uncertainty in terms of PTA for participating applications. This is only exacerbated by the fact that, unlike for most USPTO pilot programs, participation is solely at the discretion of the USPTO.

Only applications that enter the U.S. via the national phase from a PCT application (i.e., under 35 U.S.C. § 371) are eligible for participation in PIER. The program does not apply to applications filed directly in the United States under 35 U.S.C. § 111(a), including bypass continuation applications that claim priority to a PCT application but are filed as domestic applications rather than entering through the national stage.

This distinction creates a potential strategic consideration at the time of U.S. entry. By choosing to file a bypass continuation instead of a traditional national stage application, an applicant can effectively avoid the possibility of being selected for PIER. For applicants who place a high premium on maximizing PTA, or who simply prefer to avoid the procedural uncertainty associated with PIER, this may be one factor to consider when choosing a filing route.

The choice between entering the U.S. via a national stage or bypass continuation application involves multiple factors, including timing, cost, and procedural preferences. PIER adds another variable to the mix. How much weight that variable should carry will likely depend on the specific application and the applicant's broader portfolio strategy.

As with other pilot initiatives, the USPTO is expected to monitor closely to see whether PIER achieves its intended goals of reducing backlog, improving efficiency, and enhancing examination quality.

Whether PIER or some semblance of a request-for-examination system ultimately becomes a permanent feature of U.S. patent practice remains to be seen. For now, though, this is a development worth understanding and, in some cases, planning around.

Erica Hines is a partner with the law firm of Heslin Rothenberg Farley & Mesiti P.C. She is an experienced intellectual property attorney whose practice focuses on strategic IP portfolio management, chemical and pharmaceutical patent law, and trademarks, as well as related IP transactions. She can be reached via email at erica.