Application Readiness Survey: Examiner Perceptions

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Marty Rater
Chief Statistician, Office of Patent Quality Assurance

UNITED STATES PATENT AND TRADEMARK OFFICE
uspto

USPTO Patent Quality Program

- Random reviews of examiner work product
- Ad hoc reviews and case studies
- Customer perceptions of examination quality
- Examiner perceptions of quality environment

Considering Quality More Broadly

- Quality assessments have traditionally focused on USPTO work products - from first Office action quality to PTAB decisions
- The “Big Q” perspective must address the quality of every interaction, touchpoint, and system actor
- A reasonable starting point = incoming applications

Application Readiness

Attributes integral to the patent application file that enhance the ability of examiners to efficiently and effectively navigate through the examination.

Survey of Examiners

- Survey administered to random sample of patent examiners in April 2017
  - ~850 responses
  - Representative by technology and experience level of examiners
- Content determined through focus groups
- 29 attributes of application readiness for which examiners rated both **importance** (need) and the **frequency** (experience) with which the attribute was recognized

Measured Attributes

- Attributes measured on scale of 0 to 10
  - Importance (need) scale ranged from "Not Necessary" (0) to "Almost Essential" (10)
  - Frequency (experience) scale ranged from "Almost Never" (0) to "Almost Always" (10)
- Gap analysis identified areas where improvement in application quality could best enhance the examination process

Attributes: Specifications

Specifications	S1	“Background of the Invention” section that provides an overview of the technology and related art
	S2	Inventive concept clearly set forth
	S3	Difference between the invention and the prior art clearly described
	S4	Concise and complete “Brief Description of the Drawings” section
	S5	Specification clearly describes the referenced features in the drawings
	S6	Drawings show the inventive concept
	S7	"Detailed Description of the Invention" expands on the invention disclosed in the "Summary"
	S8	Preferred embodiments described in detail
	S9	Working examples present (mostly found in TC 1600 and 1700)
	S10	Working examples supporting scope of genus claims (mostly found in TC 1600 and 1700)
	S11	Definitions/guidance in the specification to aid in interpreting claim terms
	S12	Glossary of terms provided (separate section in the specification)
	S13	Clear boundaries defined when using exemplifications or inclusion of equivalents (1600/1700)
	S14	Clear terms and correct grammar and syntax
	S15	Specification that teaches the technology of the invention (reads well from a technology standpoint)
	S16	Providing a certified translation (if from a foreign applicant/entity)

Attributes: Claims & IDS

Claims	C1	Claims that are clear and correct in syntax and grammar
	C2	Independent claims that capture the same inventive concept disclosed in specification
	C3	Claim terminology that is highly correlated with language disclosed in the specification
	C4	Claims that are solely directed to the inventive concept (not broader than the inventive concept)
	C5	Claims that are logically organized from broadest to narrowest in scope
	C6	Claims that clearly denote whether 112(f) is invoked or not
	C7	Claim sets drawn to a single statutory class of invention
	C8	Claims that have only one reasonable interpretation
	C9	Reasonable/manageable number of claims

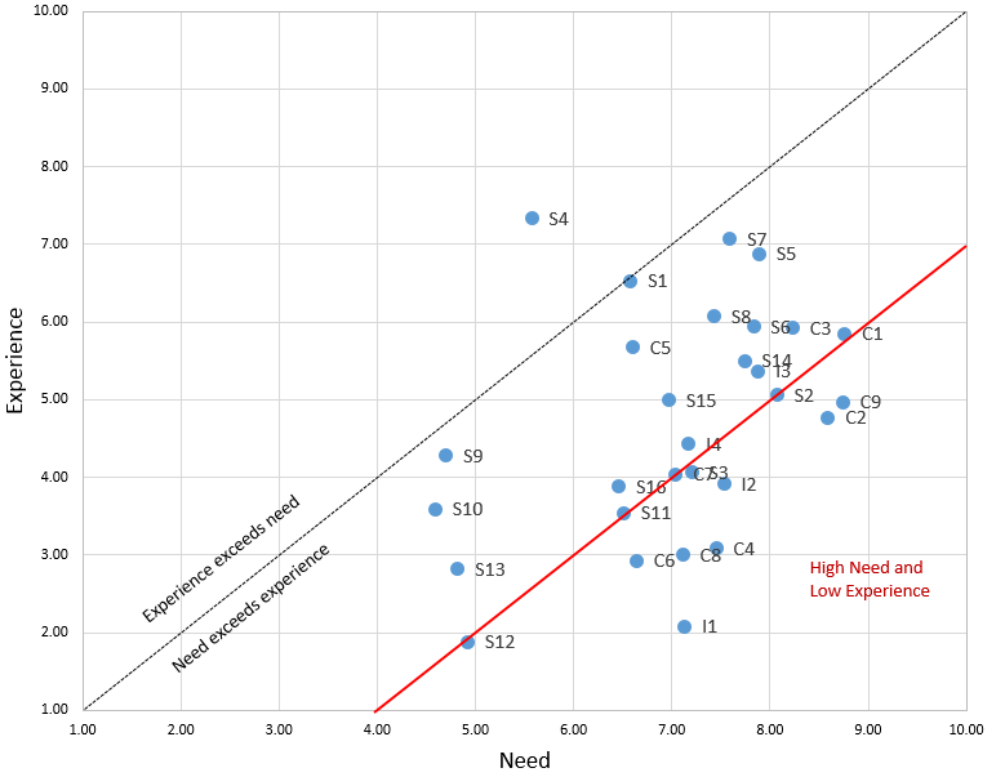
IDS	I1	IDS that includes the significance/relevance of each citation to the inventive concept
	I2	All citations in IDS in English (translations are provided with submission)
	I3	Reasonable/manageable number of references cited in IDS
	I4	PCT Search Reports relevant to inventive concept/claims

Summary of Findings

Top Needs

		Need	Experience	Gap
Specifications	Having the inventive concept clearly set forth	8.07	5.06	3.0
	Having the specification clearly describe the referenced features in the drawings	7.89	6.88	1.0
	Having the Drawings show the inventive concept	7.83	5.94	1.9
	Having the "Detailed Description of the Invention" expand on the invention disclosed in the "Summary"	7.59	7.07	0.5
	Having the preferred embodiments described in detail	7.43	6.07	1.4
	Using clear terms and correct grammar and syntax	7.74	5.50	2.2
Claims	Having claims that are clear and correct in syntax and grammar	8.76	5.85	2.9
	Having independent claims that capture the same inventive concept disclosed in specification	8.59	4.77	3.8
	Having claim terminology that is highly correlated with language disclosed in the specification	8.23	5.92	2.3
	Having claims that are solely directed to the inventive concept (not broader than the inventive concept)	7.45	3.08	4.4
	Having a reasonable/manageable number of claims	8.74	4.97	3.8
IDS	Having all citations in IDS in English (translations are provided with submission)	7.53	3.91	3.6
	Having a reasonable/manageable number of references cited in IDS	7.88	5.37	2.5

Summary of Findings



Next Steps

- Evaluate application readiness for impacts on timeliness and quality
- Confirm examiner perceptions
- Identify best practices for sharing and education
- If deemed valuable, establish monitoring and assessment program

Additional Questions We Are Asking

- What is the best way to quantify readiness?
- What is the best way to quantify impacts on timeliness or quality while controlling for other factors?
- Are examiner perceptions based on the occasional troublesome application or is it a systemic concern? Can Big Data help?
- Are the attributes of readiness something the applicants can effectively address? How can the Office assist?