

THE NEW DIRECTOR OF THE USPTO IS DEDICATED TO REDUCING THE APPLICATION BACKLOG

By: David Pitcher and Yiu Au

On August 13, 2009, David J. Kappos became the new appointee for the Under Secretary of Commerce for Intellectual Property and the Director of the U.S. Patent and Trademark Office (USPTO).

Mr. Kappos' appointment is seen by many as a welcome change at the USPTO. Previously, the USPTO had enacted a number of controversial rules that were viewed by some as violations of patent applicants' rights.

The new leadership at the USPTO is dedicated to reducing the large application backlog. The number of pending applications in 2008 is over 1.2 million with about 800,000 still awaiting examiner actions, compared with 400,000 pending and 200,000 awaiting examiner actions in 1998. Current initiatives at the USPTO include a new interview process that permits applicants and examiners to discuss and identify allowable matters earlier. This process also aims to increase the allowance rate which dropped from 70% in 1998 to 45% in 2008. Also, the USPTO announced proposed changes to the examiner's count system. The count system gives incentives to examiners for completing various stages of patent prosecution.

Practice Tip: The new leadership at the USPTO is working on various solutions to reduce application backlog. Information about the new interview process or the proposed count system are available in this newsletter. For further information, please contact us.