

## Parsing USPTO Petitions Data

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The **USPTO** has launched a [Petitions Timeline](#) that provides information on the types of petitions that can be filed at each stage of prosecution, the average time to decision and grant rate, and the deciding office. While some of the most interesting petitions may fall under the catch-all categories of “questions not specifically provided for” (petitions under *37 CFR 1.181*) and “invoking the supervisory authority of the Director” (petitions under *37 CFR 1.182*), the USPTO petitions data do reveal some interesting points.

### Petitions Relating To Advancing Prosecution

The USPTO provides the following data on petitions to advance prosecution:

- the average decision time on petitions for prioritized examination (Track 1) is 35 days, with a 94% grant rate.
- the average decision time on petitions for Accelerated Examination under MPEP 708.02(a) is 84 days, with a 37% grant rate.
- the average decision time on petitions to enter the Patent Prosecution Highway (PPH) is 128 days, with a 77% grant rate

These numbers indicate that while a Track 1 petition has the highest fee, it also has the shortest grant time and highest grant rate. The longer grant times for Accelerated Examination and PPH petitions likely reflect the need to review the petitions more substantively for compliance with the requirements of those programs.

### Petitions Challenging Examiner Decisions

The USPTO provides the following data on petitions challenging examiner decisions:

- the average decision time on petitions challenging a final Restriction Requirement is 91 days, with a 47% grant rate.

- the average decision time on petitions challenging the finality of a rejection is 46 days, with a 39% grant rate.

When considering these average grant times, it is important to keep in mind that filing a petition does not stop the response period clock from running. Thus, petitions need to be filed promptly upon receipt of the offending Office Action, in order to increase the likelihood that a decision will be received before a response has to be filed.

## **Petitions For Retroactive Foreign Filing License**

According to the USPTO, petitions for retroactive foreign filing license have an average decision time of 170 days and a grant rate of 36%. Hopefully that low grant rate is for *initial* petition decisions, since the failure to comply with foreign filing license requirements can [prevent the grant](#) of a patent.

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