

**PATENTS**

# PTO KEEPING UP WITH BIOTECH APPLICATIONS

WASHINGTON, D.C.—The U.S. Patent and Trademark Office (PTO) reports that it is holding its own against the increasing burden of biotech patent applications. And assistant commissioner Rene D. Tegtmeyer says the PTO hopes to reduce average review time for biotech-related applications from 26 months to just 18 months by the end of 1987.

Plans for a 50-percent increase in the number of biotech patent examiners—from last fall's total of 26—are progressing according to schedule, Tegtmeyer says. Half of the scheduled 40 examiners will deal with recombinant DNA applications. Four or five of the new positions have already been filled, and new university grads should fill many additional slots this spring. "We'll probably be hiring between eight and twelve more examiners between now and the end of the calendar year," he says. At that point, the PTO intends to review its staffing levels and determine whether they need to be bolstered further.

The PTO has also reorganized itself to deal more effectively with bio-

tech patents. It recently consolidated its search files of prior art in biotechnology—a move that should make literature searches more efficient. And about a year ago the PTO decided that virtually all biotechnology patent applications would be handled by its Group 120. Now, Tegtmeyer says, "We've moved the people with the right background into Group 120. We've been scouting around to see if we have people of appropriate background that could be moved without jeopardizing other areas."

New examiners need training, and they also take longer than their experienced counterparts to review patent applications. While the PTO is providing courses and lectures to indoctrinate the recruits, nothing but time will speed up their work.

Bertram Rowland, a patent lawyer at Townsend & Townsend (Palo Alto, CA), believes that many of the new examiners do not have the background for biotech review. Because they are continually exposed to state-of-the-art technology, however, they will pick it up, he says. In the PTO's

conscientious effort to catch up with the biotech backlog, Rowland says, the examiners are put under unfair time constraints.

As the PTO becomes more experienced at processing biotech applications, so too are corporate and university lawyers becoming more adept at preparing the applications. Time has clarified standards for complete disclosure and culture deposits, according to Tegtmeyer. "As the technology develops," he adds, "the disclosures can be less complete." And there is an ever-increasing fraternity of lawyers cognizant of biotech.

Patent lawyers say that it is too early to tell whether the PTO's actions are holding the line on review times, especially since some complex or disputed patent applications can take much longer than the average. Tegtmeyer is optimistic about the PTO being able to handle what the biotech industry hopes will be a burgeoning number of patent applications: "I think we are now in the process of equipping ourselves very well to deal with it."

—Arthur Klausner

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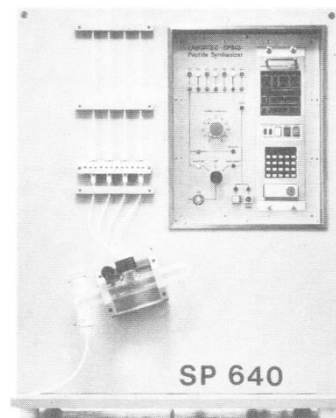
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