

How Long Does It Take?

According to the USPTO website, the “traditional” patent pendency takes 27.5 months. This statistic measures the time from the filing of an applications until the time that either a patent is issued or the application is abandoned. Unfortunately, this number can be misleading because it excludes applications that file a Request for Continued Examination (RCE).

The patent application process is a series of interchanges between the applicant and the patent examiner. Two of the services included in the initial filing fee are the first office action and the final office action. The first office action is the initial response of the patent examiner regarding the patentability of the invention. The applicant is then given an opportunity to modify their application in response to the patent examiner’s objections. The patent examiner then reviews the modified application and issues a final office action either granting the patent or rejecting the application. However, the use of the word final is misleading here because nothing needs to be final about final office action. Through an RCE, and the associated filing fee, applicants have the ability to continue the examination if they believe the patent examiner’s objections can be overcome.

RCE’s, which are very common, add approximately 10 months to pendency.

Since this is a textile blog, I thought it might be helpful to look at the pendency of textile related patents using a random sample of over 200 textile patents issued since August 2013. The average pendency of these textile patents was 34.8 months and approximately 40% of these applications required an RCE. About a quarter of textile related patents were issued in less than 18 months and about three quarters of textile related patents were issued within 46 months. The quickest patent took 90 days and the longest patent took over 10 years. About 5% of the patents took over 6.5 years.

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