Insights: Publications

Strategic Predictions Leveraging Art Unit Allowance Rates to Drive the Selection of Appeal Decision Makers

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Upon reaching an impasse with an examiner during prosecution of a patent, an applicant may initiate an ex parte appeal of a rejection, thereby requesting review by the Patent Trial and Appeal Board (PTAB). Such action can result in considerable expense and delay. However, we previously reported that a substantial portion of appeals are terminated quickly by the examiner, via issuance of either an allowance or office action. Thus, initiating an appeal process may result in several different outcomes that significantly differ with respect to delay, cost, and allowance prospects. Data more precisely identifying the probability of each outcome with respect to particular instances may allow applicants to make more strategic and informed appeal-entry decisions.