

# **EXHIBIT 5**



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*Ex Parte* Reexamination Filing Data - March 31, 2005

- 1. Total requests filed since start of ex parte reexam on 07/01/81 ..... 7490
  - a. By patent owner ..... 3143 42%
  - b. By other member of public ..... 4182 56%
  - c. By order of Commissioner ..... 165 2%

- 2. Number of filings by discipline
  - a. Chemical Operation ..... 2346 31%
  - b. Electrical Operation ..... 2361 32%
  - c. Mechanical Operation ..... 2783 37%

3. Annual Ex Parte Reexam Filings

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
1981	78 (3 mos.)	1989	243	1997	376	2005	256 YTD
1982	187	1990	297	1998	350		
1983	186	1991	307	1999	385		
1984	189	1992	392	2000	318		
1985	230	1993	359	2001	296		
1986	232	1994	379	2002	272		
1987	240	1995	392	2003	392		
1988	268	1996	418	2004	441		

- 4. Number known to be in litigation ..... 1620 22%
- 5. Determinations on requests ..... 7240
  - a. No. granted ..... 6589 ..... 91%
    - (1) By examiner ..... 6483
    - (2) By Director (on petition) ..... 106
  - b. No. denied ..... 651 ..... 9%
    - (1) By examiner ..... 616
    - (2) Order vacated ..... 35

6. Total examiner denials (includes denials reversed by Director) ..... 722  
 a. Patent owner requester 417 58%  
 b. Third party requester 305 42%

7. Overall reexamination pendency (Filing date to certificate issue date)  
 a. Average pendency 21.6 (mos.)  
 b. Median pendency 16.9 (mos.)

8. Reexam certificate claim analysis:	<u>Owner</u>	<u>3rd Party</u>	<u>Comm'r</u>	
	<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>	<u>Overall</u>
a. All claims confirmed	39%	60%	1%	26%
b. All claims cancelled	31%	64%	5%	10%
c. Claims changes	47%	50%	3%	64%

9. Total ex parte reexamination certificates issued (1981 - present)..... 5094  
 a. Certificates with all claims confirmed 1328 26%  
 b. Certificates with all claims canceled 510 10%  
 c. Certificates with claims changes 3256 64%

10. Reexam claim analysis - requester is patent owner or 3rd party; or Comm'r initiated.

a. Certificates _ PATENT OWNER REQUESTER .....	2223	
(1) All claims confirmed	519	23%
(2) All claims canceled	159	7%
(3) Claim changes	1545	70%
b. Certificates _ 3rd PARTY REQUESTER .....	2738	
(1) All claims confirmed	792	29%
(2) All claims canceled	325	12%
(3) Claim changes	1621	59%
c. Certificates _ COMM'R INITIATED REEXAM .....	133	
(1) All claims confirmed	17	13%
(2) All claims canceled	26	20%
(3) Claim changes	90	67%