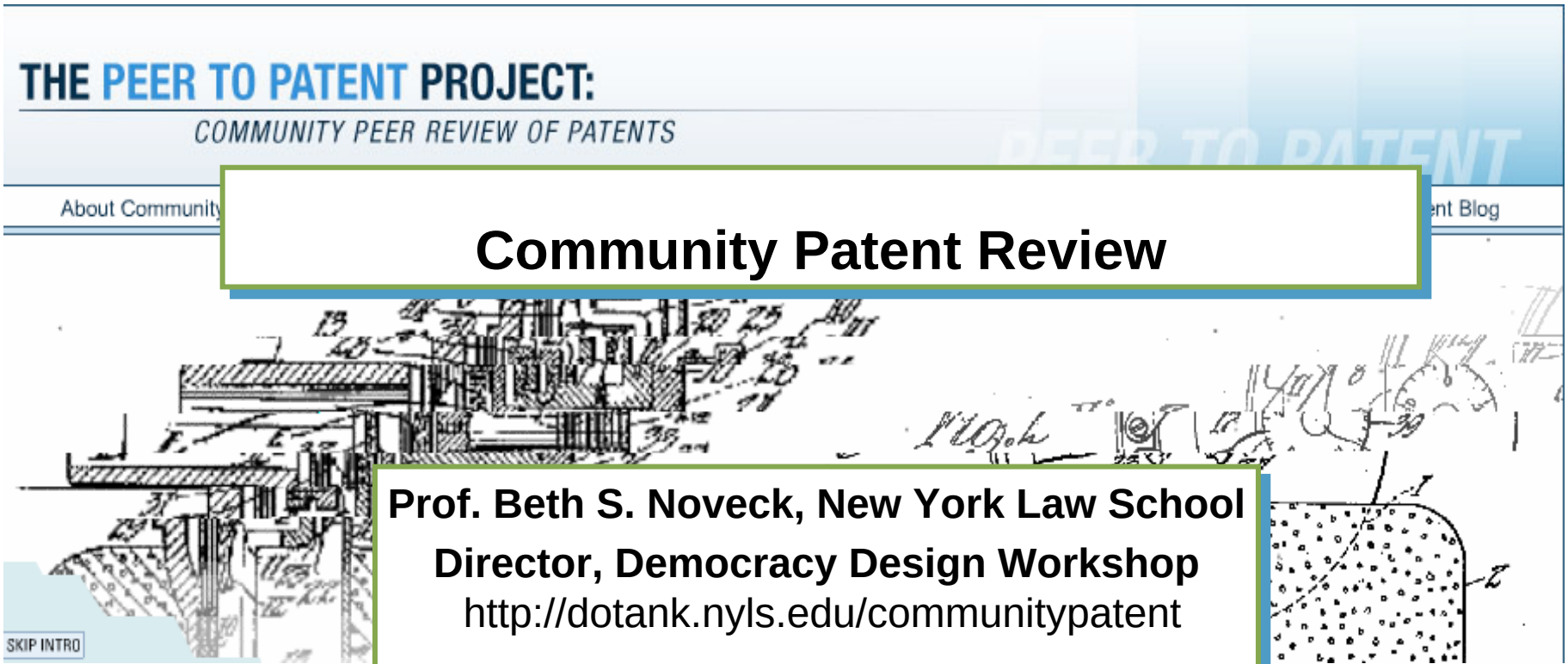

Community Patent Review

Prof. Beth S. Noveck, New York Law School
Director, Democracy Design Workshop
http://dotank.nyls.edu/communitypatent

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Web-Based System Connecting Experts to Examiners

Community Patent Review aims to improve the quality of issued patents by giving the patent examiner access to better information by means of an open network for community peer review of patent applications.

The First Social Software Project Impacting Legal Process

- Integrating an open peer review process with the USPTO per Strategic Plan;
- Creating and amalgamating a vetted database of prior art references that, over time, produce better patent grants;
- Developing a deliberation methodology and technology to allow community rating, ranking and processing of the data collected; and
- Generating feedback from patent examiners

The Information Deficit

The Challenge: Improving Patent Quality

- Patent examiners
  - Do not have access to a wide-enough array of informational resources
  - Must contend with poorly drafted applications and often uncooperative applicants
  - Cannot leverage the community of experts to promote the progress of useful arts
  - Plus….
    - They labor under tremendous backlog with 18-20 hours for application review
    - Lack time for training in new and advanced scientific subjects
    - Yet they have deep patent and legal expertise

Thomas Jefferson Had the Right Idea

- The best information rests with people who know
- Expertise is decentralized
- Internet technologies suggest a fundamental rethinking
- Intertwining scientific and legal decision making
- Collaborative expertise not centralized administration

A Solution: Exploit New Technology to Tap Collective Intelligence of the Community of Experts

We have arrived at a moment when it is possible to explore the option of "open review" for patents

Why Now? Five factors converge:

- Political and technological moment is ripe
- Citizen consultation practiced by all agencies; peer review in widespread use in government (e.g. NIH, EPA, NSF)
- Most US patents applications are published after 18 months
- Social reputation, social networking and social recommendation technology
- Experience with large scale collaboration: Wikipedia, Slashdot, Yahoo Answers, Open Source Programming suggests scaling of peer review, Google Co-Op

Why Open Review?

For Patent Examiners

Crucial problem: Backlog

- Assists examiners with searching, making the examiner's job easier.
- Informs the patent examination process with useful information.
- Manageable inputs.
- Incentive to inventors to file better applications.
- Hard data to drive reform.
- No statutory changes.

For Inventors

Critical issue: Better prior art efficiently

- No cost prior art searching.
- Stronger patent claims.
- Reduced risk of litigation.
- Potentially higher rewards.
- Application treated as special.

Why Open Review?

For Patent Service Companies

Key Wish: Connect to USPTO

- Will accept data from commercial websites.
- P2Patent will manage participation.
- Neutral, non-profit clearinghouse.
- CPR will eventually develop standards for channeling data to the USPTO from third parties.

For the Public

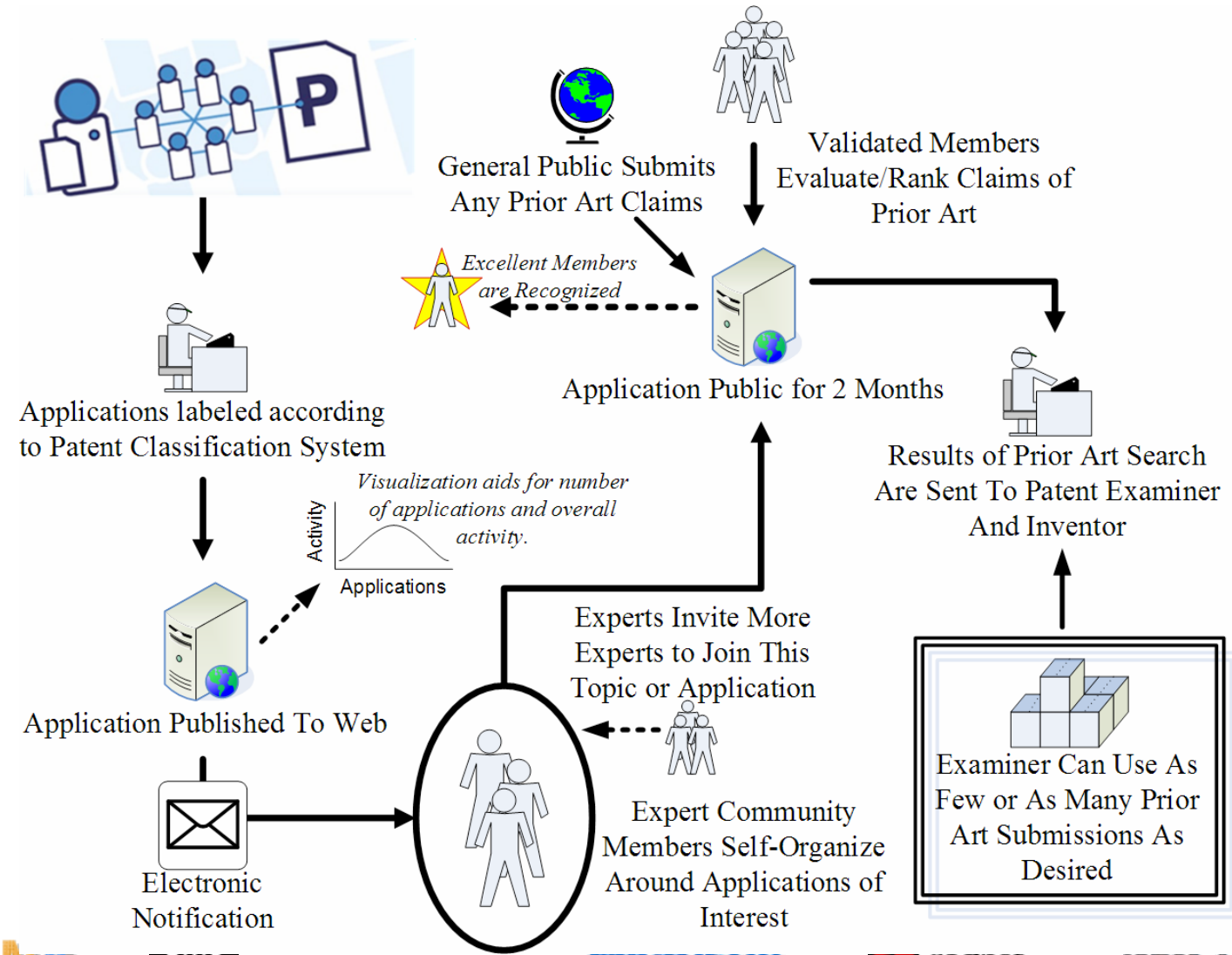
Core Problem: Better Patents

- Bad patent claims are winnowed out.
- Community feedback is directly relevant to the legal decision-making process.
- Enables open conversation within the scientific community.
- Generates empirical data to improve process and promote data-driven legal reform.

From Centralized to Collaborative Expertise

- What if, instead of one, an application had "1000 examiners"?
- What if the community collaborated on developing repositories of prior art for its area of expertise?
- What if persons skilled in the art could comment on how novel and non-obvious an invention actually was?
- What if a wider array of people had a simple way to put forth prior art before the patent was approved?
- What if we could review applications faster and better?
- What if we could change our legal institutions through better technology design?

How Will It Work?



Summary of Pilot

- Spring 2007
- 250-400 Patents
- Technology Center 2100
- Participating Companies include: HP, IBM, Intel, International Characters, Microsoft, Oracle, Out of the Box Computing, Red Hat

Summary of Features Under Discussion

Applicant requests review

Application is published on the p2patent site

Electronic notifications go out to the peer review community

Peer reviewers invite more experts to subscribe and participate.

Peer reviewers can search and find applications of interest.

Peer reviewers can associate tags or keywords

Visualization aids reveal web site activity

Peer reviewers can: 1) rate claims, 2) submit prior art examples, 3) comment on the patent or on prior art submissions, 4) rate prior art submissions, 5) rate prior art, 6) rate peers.

Prior art submissions are added to a community knowledge base

Peer reviewers can view and rate the comments and prior art examples created by others

Rank ordered results of prior art submissions are sent to the patent examiner and inventor at the close of the peer review period.

Examiner can use as few or as many prior art submissions as desired

Members of the community receive "karma effects"

Summary of Features Under Discussion

Impacts Decision-Making: Directly tied into the Patent Office's examination process.

No Rule Changes Required: Applicants will consent to participate; no statutory or regulatory amendments are required for the pilot.

Commentary: Patent applicants consent to receive comments on prior art submissions, avoiding the need to change current rules while making information in the system more useful.

Ranking: P2Patent provides rating and ranking tools to make participation manageable. There are tools to ranks the claims of a patent application. It provides a mechanism to rank submitted prior art as well as participant rating to encourage useful contributions.

Automated Reports: Examiner receives rank-ordered list of prior art at the end of the community patent review. This automated search report reflects the wisdom of the community.

Building a Knowledge and Learning Environment: Prior art submissions added to database to increase USPTO knowledge-base.

Who?: Project Governance

- New York Law School Institute for Information Law & Policy
- United States Patent and Trademark Office
- Steering Committee
- Advisory Board

Consultative Workshops Addressed Major Process Design Questions and Brought to Bear Expertise in Law, Science, Technology and Design

Harvard Law School
University of Michigan
New York Law School
Stanford Law School
Yale Law School
Institute for Public Policy Research
Dozens of individual consultations and correspondences
USPTO

Timeline

Realize Opportunities for Expert Consultation

From Proposal to Prototype

Solicit input via WIKI and Web

Solicit input through workshops and consultation

Solicit participation

Draft Posted	Workshops	Building the System	Pilot
Jan 2006	Feb-June 2006	June - March 2007	April 2007

Evaluation

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Core Focus on Democratic Values

Governmental decision-making will improve with greater information.

Citizens have the right and obligation to deliberate about questions of public importance.

Must create collaborative, open practices enabled by technology that facilitate citizen and expert participation that is useful.

We want to engineer the practices and the systems that will allow us to act in concert and to develop the models by which we can govern more openly.

Key Design Values

Participatory Practices
Transparency
Independence
Expertise in its Broadest Sense
Collaborative Decision-making
Deliberative and Reasoned Dialogue
Public Private Partnership
Rough Consensus, Running Code
Constitutional Values

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