

Manual of PATENT EXAMINING PROCEDURE

Original Sixth Edition, January 1995



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office
Washington, D.C. 20231

MANUAL OF PATENT EXAMINING PROCEDURE
Sixth Edition

The enclosed is the Sixth Edition to the Manual of Patent Examining Procedure. The Manual has been revised extensively and now includes the current Patent and Trademark Office rules and practice. Changes are highlighted on the following pages. The Sixth Edition does not presently include new Chapters 700 or 2100, which are undergoing extensive revisions. Copies of Chapters 700 and 2100 as most recently revised in the previous Edition of the Manual are included herein so that **all pages of the Manual are included.**

This Edition of the Manual was prepared with the assistance of the MPEP Revision Committee which has been established with a view to providing the users of the Manual with the most current and useful product possible. The Committee is comprised for the most part of Supervisory Primary Examiners and Primary Examiners from the Patent Examining Corps, but also includes PTO professionals from the Board of Patent Appeals and Interferences, PCT Operations, Search and Information Resources, Office of Petitions and Office of Special Programs. The efforts of the Committee are certainly appreciated.

J. Michael Thesz, Editor
Manual of Patent Examining Procedure

January 1995

Particular attention is called to the changes in the following sections:

Chapter 100:

101

18 U.S.C. 2071 has been revised.

120

Revised to emphasize that correspondence to the PTO filed in an application which is subject to the secrecy order must be transmitted in a manner which would preclude disclosure to unauthorized individuals. Use of facsimile transmissions is not permitted.

Further revised to more accurately describe the 3 types of Secrecy Orders.

140

The reproduction of 37 CFR 5.19 has been updated to reflect the revision effective Jan. 3, 1994.

151

Revised to indicate that a supplemental statement executed by any added inventor(s) must be filed if a petition under 37 CFR 1.48 is granted during pendency of an application in which a property rights statement has been filed.

Chapter 200:

201.03

Revised to indicate written consent of assignee is not required for 37 CFR 1.48(b) petitions.

Revised to indicate that a 37 CFR 1.48 petition is not required where an application will issue with the correct inventorship, even though the application may have been filed with an incorrect inventorship based on the claims as originally submitted.

In the "Oath or Declaration" section, an insertion dealing with application papers which are in conflict as to inventorship has been made.

201.06(b)

A paragraph pertaining to File Wrapper Continuation application requests signed by a registered patent practitioner has been inserted.

201.13

The list of countries for which 35 U.S.C 119 priority is granted has been updated.

201.15

Revised to indicate that a translation of a certified copy to perfect 35 U.S.C. 119 priority must be accompanied by a statement that the translation is accurate.

Chapter 300:

324

Revised to clarify that a 37 CFR 3.73(b) statement is needed for a request to correct inventorship of a patent under 35 U.S.C. 256.

Chapter 400:**402.09**

Revised to indicate that appointments/revocations of powers of attorney by less than all applicants or owners will not be accepted if filed by a previously non-signing inventor who has later joined.

409.03(d)

Revised to indicate that temporary unavailability of non-signing inventor due to being out of town or on vacation is not an appropriate reason for filing a petition under 37 CFR 1.47.

409.03(i)

Revised to indicate that a non-signing inventor who later joins cannot revoke/appoint power of attorney without agreement of 37 CFR 1.47 applicant.

Chapter 500:**502.01**

This section has been added to deal with correspondence by facsimile transmission.

502.02

This section has been added to deal with correspondence signature requirements.

503

Revised to clarify that application numbers consist of series code and Serial Number and the limitations on attorney docket numbers.

A paragraph dealing with inadvertently filed applications has been added.

Revised to indicate that postcard receipts will serve as *prima facie* evidence only of itemized components.

506.02

Revised to discuss situations where a supplemental oath/declaration will be required before granting of a filing date.

508.03

Revised to clarify that abandoned files can be ordered from Files Repository. The PALM location codes for Publishing Division are 7400 through 7650.

509.02

Revised to clarify that the term "license" in the definitions includes nonexclusive as well as exclusive licenses and royalty free and royalty generating licenses.

509.03

Language added dealing with correction of erroneous payment of small entity fees.

512

A suggested format for Certificate of (Facsimile) Transmission has been added. The Certificate of Transmission applies to papers transmitted from foreign countries.

Revised to indicate that 37 CFR 1.8 and 1.10 apply only to documents deposited with the U.S. Postal service.

512 (cont)

A paragraph dealing with handling of Certificates of Mailing by Examining Group personnel has been added.

Chapter 600:
601

Revised to emphasize that the Abstract of disclosure should be submitted on a separate page.

Revised to emphasize that the Brief Description of the Drawings should include a brief description of each Figure.

Reproductions of forms PTO-1607 (notice to file missing parts of Rule 1.60 application, filing date granted), PTO-1608 (notice to file missing parts of Rule 1.60 application, no filing date granted) and PTO-457 (notice of improper file wrapper continuation filing under 37 CFR 1.62, no filing date granted) have been added.

602.03

Revised to emphasize that waiver of minor deficiencies in the oath must be indicated by marginal notes by an examiner with full signatory authority.

605

Revised to indicate that, when a copy of the original oath is returned to applicant for proper authentication or certification, a copy of the original oath will be retained in the file.

605.01

Revised to indicate that the filing date of an application will be the date of receipt of the names of all inventors unless a petition is filed setting forth the reasons the delay in supplying the names should be excused.

605.02

Added Form paragraph 6.09 dealing with omission of residence where post office address has been provided.

605.04(a)

Formerly numbered 605.04.

608.01(f)

37 CFR 1.84 has been revised.

608.01(n)

Revised to indicate that, during prosecution, the order of claims may be in conflict with the requirement that dependent claims refer to a preceding claim; this must be corrected when the claims are renumbered upon allowance.

608.01(p)

The utility guidelines have been revised to reflect current Office policy.

Revised to clarify that essential material may be canceled by amendment and may be substituted by reference to a U.S. Patent or pending application in which the issue fee has been paid.

Further revised to clarify that applicant may be required to furnish the Office with a copy of material incorporated by reference.

The deposit of microorganism material has been removed because it is covered in Chapter 2400.

- 608.01(v)** Form paragraph 6.20 has been amended to replace "parentheses" with "quotation marks".
- 608.02** Revised to indicate that facsimile drawings are not acceptable.
Form paragraph 6.40 has been revised.
The address of the American Standards Institute, Inc. has been changed.
Revised to indicate that submission of black and white photographs as formal drawings must be accompanied by a petition and fee and that petitions for submission of color photographs are decided by the Group Director.
Form paragraphs 6.24 and 6.24.1 have been revised.
- 608.02(b)** Revised to clarify that the examiner may inform the applicant that formal drawings will be required upon allowance either in the Office Action or on the PTOL-326 form.
- 608.02(h)** Revised to clarify that examiners can acknowledge receipt of formal drawings either in the Office Action or on form PTOL-326.
- 608.02(i)** Revised to indicate that transfer of drawings from one application to another requires granting of a petition under 37 CFR 1.182.
- 608.02(p)** 37 CFR 1.123 has been revised.
- 608.02(z)** Revised to clarify that, upon allowance, the examiner may require formal drawings either in an Office Action or on form PTOL-37.
Form paragraph 6.48 has been revised.
- 609** A paragraph has been inserted dealing with treatment of documents cited in the international search report in a PCT national stage application.
Language has been inserted dealing with the requirement for the date of each publication listed in an Information Disclosure Statement so that provision of the year only is acceptable where applicant points out in the Information Disclosure Statement that the year of publication is sufficiently earlier than the effective U.S. filing date and any claimed foreign priority date so that the particular month of publication is not in issue.

609 (cont)

Revised to indicate that submission of an English language abstract of a reference which does not deal with its relevance to the invention does not fulfill the concise explanation requirement of 37 CFR 1.98.

Revised to clarify that an *Ex parte Quayle* action is not a final action as referred to in 37 CFR 1.97.

Revised to clarify that, where an applicant cites and provides copies of patents in the family of patents cited in a foreign search report, the examiner should consider these patents if 37 CFR 1.97 and 1.98 are met.

Revised to indicate that, where documents are submitted and relied upon by applicant as part of applicant's response to an Office Action, compliance with 37 CFR 1.97 and 1.98 is not required.

Chapter 700:

This chapter has not been revised. A copy of the chapter as most recently revised in the MPEP Fifth Edition is provided for the convenience of the user.

**Chapter 800:
804 - 804.04**

These sections have been re-written to provide more specific guidance in the area of double patenting. New form paragraphs 8.30-8.39, 7.15.1, 7.15.2 and 7.21.2 are provided to assist examiners in making double patenting and prior art rejections in this area.

806.05(i)

Revised to clarify Office policy.

**Chapter 900:
901.05**

This section on foreign patent documents has been re-written.

901.05(c)

This section has been expanded to provide more specific information on how to obtain copies of foreign patents.

901.05(d)

Revised to indicate that equivalent versions of foreign specifications are often available in English and that examiners can request equivalency searches from Translation Branch or Foreign Patents Branch.

901.06(a)

Revised to indicate that STIC maintains 3 satellite information centers in CM1, CPK1 and CPK2.

This section has been revised to update information on obtaining copies of foreign patents.

Information regarding the STIC Online Catalog System has been revised.

Revised to indicate that the staff at Foreign Patents Branch can assist examiners in finding foreign patent information.

Revised to indicate that the Electronic Information Center is available to assist examiners in finding references.

Revised to indicate that the Reference Fulfillment Branch handles interlibrary loan requests.

Revised to indicate that the Biotechnology/Chemical Information Branch is now available for handling earliest date of publication requests.

- 901.09** Revised to indicate that PTO-14C orders will be collected twice each week.
- 902.02** Revised to indicate that full sets of microfiche class definitions are issued in December of each even numbered year and that individual class definitions are available on paper or floppy disc.
- 902.03(b)** The Patent Index telephone number has been changed.
- 903.02(c)** Revised to clarify that the appropriate post-classifier must be consulted before work is begun to create a new class or subclass.
- 903.06** Revised to indicate that, when ordering cross-references for more than three different patents, the examiner can prepare a list of patents and attach one completed copy of form PTO-14B to the list.
- 903.07** Revised to indicate that examiners must use alpha subclass designators on blue slips and that a numeric subclass from which an alpha subclass has been created is designated with an "R".
- 903.08(b)** Revised to clarify that, if search in connection with a first action indicates proper classification elsewhere, transfer is usually initiated before the first action is prepared.
- 903.08** Revised to indicate that, if a U.S. national application has been acted upon by an examiner, a subsequent PCT application claiming priority to that application will normally be assigned to the same examiner.
- 905.02** Revised to indicate that, when ordering soft copies of more than three patent numbers, the examiner can prepare a list of patent numbers and attach one completed copy of Form PTO-14B to the list.
The reproduced copy of PTO-14B has been moved to § 903.06.
- Chapter 1000:**
1002.02(b) The address of the Office of Petitions has been changed.

Chapter 1100:

This is a new chapter on Statutory Invention Registrations. All material on old interference practice has been deleted. Consult Chapter 2300 for current interference practice.

**Chapter 1200:
1205**

37 CFR 1.191(d) has been revised.

1206

Revised to indicate that, for *pro se* applicants, an appeal brief in substantial compliance with the requirements of items (1),(2),(6) and (7) of 37 CFR 1.192(c) will be accepted. A paragraph dealing with treatment of such briefs has been inserted.

Revised to clarify that the two month period for filing an appeal brief runs from the Mail Room date of receipt of the Notice of Appeal.

Form paragraph 12.69.1 has been added to indicate noncompliance with 37 CFR 1.192(c) when the brief contains a statement that claims do not stand or fall together but lacks supporting reasons therefor.

The examiner note of form paragraph 12.69 has been revised to include reference to new paragraph 12.69.1

1208

Form paragraph 12.55.1 has been revised. Form paragraph 12.55.3 has been deleted because it is in conflict with the practice set forth in MPEP § 1206.

1208.03

Revised to clarify that the appellant must file a reply brief if the examiner's answer expressly states a new ground of rejection; failure to do so will result in dismissal of the appeal as to the claims which were subject to the new ground of rejection.

Revised to indicate that appellant must file a reply brief within two months from the date of an examiner's answer, whether in response to a new ground of rejection or new points of argument raised in the examiner's answer.

1209

Revised to clarify that any request for an oral hearing must be made within two months from the date of the examiner's answer regardless of whether or not the examiner's answer contains a new ground of rejection.

1214.01

Revised to clarify that the time period for requesting reconsideration of the Board's new rejection or for submitting an amendment or showing of facts may be extended under 37 CFR 1.550(c) if the appeal involves a reexamination.

**Chapter 1300:
1302.04**

A copy of form paragraph 13.02.1 has been inserted.

- 1308** Revised to indicate that, in petitions to withdraw an application from issue, the status of the application at the time the petition is filed is determinative of whether the petition is considered under 37 CFR 1.313(a) or (b).
- 1309** Revised to reflect current Office policy regarding names of practitioners/firms on patents.
- Chapter 1400:**
- 1403** Revised to indicate that a reissue application can be granted a filing date without an oath or declaration or filing fee.
- 1410.01** Form paragraph 14.15 has been revised.
- 1412.03** Form paragraph 14.12 has been revised.
- 1414.01** Revised to clarify that a reissue applicant must acknowledge the existence of a defect in the specification, drawings or claims.
 Revised to clarify that any change from the original patent represents an "error" and must be addressed in the reissue oath/declaration.
 Form paragraph 14.01 has been revised. Form paragraph 14.02 has been inserted.
- 1414.02** Material dealing with the requirements of 37 CFR 1.175(a)(4) prior to July 1, 1982 has been deleted.
- 1414.02(a)** This section has been deleted.
- 1414.03** Revised to clarify that included in the errors which must be addressed in the reissue oath/declaration are inadvertent errors in conduct which are alleged to have caused the defect.
 Form paragraph 14.03 has been revised.
- 1443** Revised to caution examiners to verify that the patent on which the reissue is based has not expired, either because its term has run or because of failure to pay required maintenance fees.
- 1490** Requirements of acceptable disclaimers are set forth.
 A paragraph has been inserted dealing with the preparation of a Terminal Disclaimer Informal Memo by the Group paralegal and the treatment of that memo by the examiner.
 37 CFR 1.321 has been revised.
- Chapter 1500:**
- 1502.01** This new section distinguishes design and utility patents.

- 1503.01** Revised to clarify that explanation of the nature and intended use of the article may be added to the specification provided it does not constitute new matter.
Revised to clarify that disclaimer statements directed to portions of the claimed design shown in solid lines in the drawings are impermissible.
The statement that phrases such as "or similar article" can be added to the title has been deleted. Accordingly, form paragraph 15.05.2 has been deleted.
- 1503.02** This section has been substantially re-written.
- 1503.03** This new section deals with the requirements of the design claim.
Form paragraph 15.45, formerly in § 1504, has been revised and is now reproduced in § 1503.03.
- 1504** A statement has been inserted pointing out the distinction between design and utility applications.
- 1504.01** Newly added section dealing with statutory subject matter for designs.
- 1504.02** New section dealing with novelty in design area.
- 1504.03** New section dealing with nonobviousness in designs.
- 1504.04** New section dealing with 35 U.S.C. 112 considerations.
- 1504.05** The double patenting material has been moved from this section to new § 1504.06. The restriction material in § 1504.05 has been revised to emphasize that a design application must be limited to a single invention; patentably distinct embodiments cannot be included in the same design application. Form paragraphs 15.27 and 15.28 have been revised.
- 1504.06** This new section deals with double patenting in design applications.
- 1504.20** Revised to indicate that claims directed to new matter added in a continuation-in-part application are not entitled to the benefit of the filing date of the parent application.
- 1512** Material has been added dealing with inclusion of trademarks in design patent applications.
- Chapter 1600:**
1606 37 CFR 1.165 has been revised.

- Chapter 1700:**
Only typographical/formatting changes have been made.
- Chapter 1800:**
1801 Revised to indicate that the WIPO International Bureau will also act as a Receiving Office for U.S. residents and nationals.
- 1805** The address of the U.S. Receiving Office has been updated.
Material on facsimile transmission of papers in international applications has been added.
Material on the applicability of PCT Rule 19.4 has been added.
- 1817** The list of PCT member states has been updated.
- 1820** Revised to indicate that the request filed may be either an original or a copy thereof and that certain papers may be filed by facsimile transmission.
- 1821** Revised to indicate that, in international applications, the dates in the request may be listed as Arabic numerals separated by periods, slashes or hyphens.
- 1834.01** Material dealing with facsimile transmission has been added.
- 1836** Revised to indicate that a misspelled word could, as opposed to "would", be considered an obvious error subject to rectification under PCT Rule 91.
- 1840** Revised to indicate that the USPTO has agreed to conduct international searches for Mexico, Trinidad and Tobago, in addition to the countries previously listed.
- 1849** Revised to indicate that the USPTO will search and examine all subject matter searched and examined in U.S. national applications.
- 1865** Revised to clarify that, if a Certificate of Mailing or Transmission is used, contrary to 37 CFR 1.8, the date of the Demand is the date of receipt in the USPTO.
- 1878** A paragraph has been added which provides guidance on filling out Box I, item 1 of the PCT/IPEA/408 form.
Revised to clarify that the examiner should check box No. 2 of Item II of the PCT/IPEA/408 when the claimed priority date is more than one year prior to the international filing date and the Rule 4.10(d) notification has been given.

- 1878 (cont)** The material dealing with Item VII of PTO/IPEA/408 has been revised.
- 1878.02** Revised to indicate that the letter accompanying replacement sheet(s) must draw attention to the differences between the replaced sheet(s) and replacement sheet(s).
The statement that U.S. rules do not provide for a second Written Opinion has been deleted. The statement that U.S. rules do not provide for extensions of time to respond to a first Written Opinion remains.
- 1879** A paragraph has been added which provides guidance on filling out Box I, item 1 of the PCT/IPEA/409 form.
- 1879.03** Revised to indicate that the International Preliminary Examination Report and any annexes are now also established in Chinese.
- 1893.01(a)(1)** Revised to indicate that facsimile transmission is not acceptable for submission of the basic national fee and/or the copy of the international application for the national stage.
Revised to clarify that the time period to submit the required oath, declaration or translation is the time period set by the notification by the Office or 21 months from the priority date, whichever is later.
- 1893.01(b)(1)** Revised to indicate that facsimile transmission is not acceptable for submission of the basic national fee and/or the copy of the international application for the national stage.
- 1893.01(e)** Revised to clarify that the time period to submit the required oath/declaration is 21 (not 20) months or 31 (not 30) months from the priority date, as appropriate, or one month from the date of the notice, whichever expires later.
- 1893.03(g)** Material has been added regarding handling of documents cited in international search reports and/or international preliminary examination reports.
- Chapter 1900:**
No substantive changes have been made.
- Chapter 2000:**
2010 New section which deals with Office handling of duty of disclosure/inequitable conduct issues.

Chapter 2100:

This chapter has not been revised. A copy of the chapter as most recently revised in the MPEP Fifth Edition is provided for the convenience of the user.

**Chapter 2200:
2205**

Inserted material provides guidance on which items should and should not be included in prior art citations.

2222

Revised to indicate that changes of power of attorney or correspondence address in patents should not be addressed to "Box Reexam", but rather to "Office of Public Records, Records Maintenance Branch".

2224

Revised to clarify that the use of "Box Reexam" is limited to filing of the original request for reexamination.

Revised to clarify that the request for reexamination may not be sent by facsimile transmission.

2240

Revised to indicate that examiners should request a litigation computer search by the STIC and that a copy of the STIC search should be placed in the reexamination file.

2250

Material dealing with rejection of claims which broaden or enlarge the scope of a claim of the patent has been inserted.

2258

Revised to clarify that non-statutory double patenting rejections in reexaminations can be overcome by filing a terminal disclaimer.

2285

Form paragraph 22.05 has been inserted.

2287

Instructions to examiners in selecting a claim or claims for O.G. publication have been inserted.

**Chapter 2300:
2301.03**

New section regarding filing papers in interferences. Except for the enumerated items, certificates of mailing and transmission can be used.

2321

Revised to indicate that a preliminary statement cannot be transmitted by facsimile.

2353

Revised to indicate that the evidentiary record and exhibits cannot be transmitted by facsimile.

2366

Revised to indicate that neither certificate of mailing nor facsimile transmission can be used to file a settlement agreement.

- 2376** Revised to indicate that a transcript of a deposition cannot be transmitted by facsimile.
- 2384** Revised to indicate that interrogatories, cross-interrogatories and recorded answers cannot be transmitted by facsimile.
- Chapter 2400:**
No substantive changes have been made.
- Chapter 2500:**
This is a new chapter dealing with maintenance fees.
- Appendix L -** Revised to include the changes made by the GATT implementing legislation, Public Law 103-465.
- Appendix R -** Revised to include all amendments to the regulations to date.
- Appendix AI -** Revised to include the amendments to the PCT Administrative Instructions effective January 1, 1994.

Manual of PATENT EXAMINING PROCEDURE

Original Sixth Edition, January 1995



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Patent and Trademark Office

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Commissioner of Patents and Trademarks
Attention: Certification Branch
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The Manual is available on CD-ROM and on diskette from:

U.S. Patent and Trademark Office
Office of Electronic Information Products and Services
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Telephone: (703)308-0322

Employees of the Patent and Trademark Office should direct their requests for the Manual, replacement pages, notices, and revisions to the Patent Academy.

Additions to the text of the Manual are indicated by arrows (><) inserted in the text. Deletions are indicated by a single asterisk (*) where a single word was deleted and by two asterisks (**) where more than one word was deleted. The use of three or five asterisks in the body of the laws and rules indicates a portion of the law or rule which was not reproduced.

First Edition, November 1949

Second Edition, November 1953

Third Edition, November 1961

Fourth Edition, June 1979

Fifth Edition, August 1983

Sixth Edition, January 1995

Foreword

This Manual is published to provide Patent and Trademark Office patent examiners, applicants, attorneys, agents, and representatives of applicants with a reference work on the practices and procedures relative to the prosecution of patent applications before the Patent and Trademark Office. It contains instructions to examiners, as well as other material in the nature of information and interpretation, and outlines the current procedures which the examiners are required or authorized to follow in appropriate cases in the normal examination of a patent application. The Manual does not have the force of law or the force of the Patent Rules of Practice in Title 37, Code of Federal Regulations.

A separate manual entitled "Trademark Manual of Examining Procedure" is published by the Patent and Trademark Office as a reference work for trademark cases.

Examiners will be governed by the applicable statutes, the Rules of Practice, decisions, and orders and instructions issued by the Commissioner and the Assistant Commissioners. Orders and Notices still in force which relate to the subject matter included in this Manual are incorporated in the text. Orders and Notices, or portions thereof, relating to the examiners' duties and functions which have been omitted or not incorporated in the text may be considered obsolete. Interference procedure not directly involving the Primary Examiner are not included in this Manual and, therefore, Orders and Notices relating thereto remain in force.

Subsequent changes in practice and other revisions will be incorporated in the form of substitute or additional pages for the Manual.

Suggestions for improving the form and content of the Manual are always welcome. They should be addressed to:

**Commissioner of Patents and Trademarks
Editor, MPEP
Washington, D.C. 20231**

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Introduction

Constitutional Basis

The Constitution of the United States provides:

“Art. 1, Sec. 8. The Congress shall have power . . . To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries.”

Statutes

Pursuant to the provision of the Constitution, Congress has over the years passed a number of statutes under which the Patent and Trademark Office is organized and our patent system is established. The provisions of the statutes can in no way be changed or waived by the Patent and Trademark Office.

Prior to January 1, 1953, the law relating to patents consisted of various sections of the Revised Statutes of 1874, derived from the Patent Act of 1870 and numerous amendatory and additional acts.

By an Act of Congress approved July 19, 1952, which came into effect on January 1, 1953, the patent laws were revised and codified into substantially its present form. The patent law is Title 35 of the United States Code which governs all cases in the Patent and Trademark Office. In referring to a particular section of the patent code the citation is given, for example, as, 35 U.S.C. 31.

35 U.S.C. 1. Establishment.

The Patent and Trademark Office shall continue an office in the Department of Commerce, where records, books, drawings, specifications, and other papers and things pertaining to patents and to trademark registrations shall be kept and preserved, except as otherwise provided by law.

Rules of Practice

One of the sections of the patent statute, namely, 35 U.S.C. 6, authorizes the Commissioner of Patents and Trademarks, subject to the approval of the Secretary of Commerce, to establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent and Trademark Office.

37 CFR 1.351. Amendments to rules will be published.

All amendments in this part will be published in the *Official Gazette* and in the *Federal Register*.

35 CFR 1.352. Publication of notice of proposed amendments.

(a) Whenever required by law, and in other cases whenever practicable, notice of proposed amendments in this part will be published in the *Official Gazette* and in the *Federal Register*. If not published with the notice, copies of the text will be furnished to any person requesting the same. All comments, suggestions, and briefs received within a time specified in the notice will be

considered before adoption of the proposed amendments which may be modified in the light thereof.

(b) Oral hearings may be held at the discretion of the Commissioner.

These regulations or rules and amendments thereto are published in the *Federal Register* and in the *Official Gazette*. In the *Federal Register* and in the *Code of Federal Regulations* these rules are Part 1 of Title 37, Patents, Trademarks, and Copyrights, and the individual rules, called sections, are numbered with the Part number and a decimal point prefixed to the rule number. A booklet entitled “37 Code of Federal Regulations,” published by the Office of the *Federal Register*, contains all of the patent rules as well as trademark rules and copyright rules. Persons desiring a copy of the patent rules should order a complete copy of “Title 37, Code of Federal Regulations” from the Superintendent of Documents.

The primary function of the Rules of Practice is to advise the public of the regulations which have been established in accordance with the statutes and which must be followed before the Office. The Rules of Practice govern the examiners, as well as applicants and their attorneys. The Rules of Practice appear in the *Manual of Patent Examining Procedure* as Appendix R.

Commissioner's Orders and Notices

From time to time, the Commissioner of Patents and Trademarks has issued Orders and Notices relating to various specific situations that have arisen in operating the Patent and Trademark Office. Notices and circulars of information or instructions have also been issued by other Office Officials under authority of the Commissioner. Orders and Notices have served various purposes including directions to the examiners giving them instruction, information, interpretations, and the like. Some may be for the information of the public, advising what the Office will do under specified circumstances.

Decisions

In addition to the statutory regulations, the actions taken by the examiner in the examination of applications for patents are to a great extent governed by decisions on prior cases. Applicants dissatisfied with an examiner's action may have it reviewed. In general, that portion of the examiner's action pertaining to objections on formal matters may be reviewed by petition to the Commissioner of Patents and Trademarks (see MPEP § 1002) and that portion of the examiner's action pertaining to the rejection of claims on the merits, may be reviewed by appeal to the Board of Patent Appeals and Interferences (see § 1201). The distinction is set forth in 37 CFR 1.181 and 1.191. In citing decisions as

authority for his or her actions, the examiner should cite the decision in the manner set forth in MPEP § 707.06.

Publications Available from Superintendent of Documents

Orders should be addressed and remittances made payable to Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.

Patent Official Gazette. The official journal of the Patent and Trademark Office relating to patents. Issued each Tuesday, simultaneously with the weekly issuance of patents, it contains a selected figure of the drawings and a claim of each patent granted, indexes of patents, list of patents available for license or sale, and general information such as orders, notices, changes in rules, and changes in classification.

Annual Indexes. An index of the patents issued each year is published in two volumes, one an alphabetical index of patentees and the other an index by subject matter of inventions. The two parts are sold separately. Price varies from year to year, depending upon size of the publication. An annual index of Trademarks contains an alphabetical index of trademark registrants, registration numbers, dates published, classification of goods for which registered, and decisions published during the calendar year. Price varies from year to year, depending upon size of the publication.

Guide for Patent Draftsmen. Patent and Trademark Office requirements for Patent drawings with illustrations.

Manual of Classification. A looseleaf volume listing the numbers and descriptive titles of the more than 300 classes and 95,000 subclasses used in the subject classification of patents, with an index to the classifications. Substitute and additional pages, which are included in the subscription service, are issued from time to time.

General Information Concerning Patents. Contains a vast amount of general information concerning the application for and granting of patents, expressed in nontechnical language for the layman. Multiple copies available from Superintendent of Documents.

Manual of Patent Examining Procedure. A looseleaf manual which serves primarily as a detailed reference work on patent examining practice and procedure for the Patent and Trademark Office's Examining Corps including statutes, rules, treaties, etc. Subscription service includes basic manual, revisions, and change notices.

Patents and Inventions — An information Aid to Inventors. The purpose of this publication is to aid inventors in deciding whether to apply for patents, in obtaining patent protection, and in promoting their inventions.

Patent Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office. An alphabetically and a geographically arranged listing of patent attorneys and agents registered to practice before the U. S. Patent and Trademark Office.

Title 37—Code of Federal Regulations. Compilation of the rules of practice of the U. S. Patent and Trademark Office.

Publications Available From the Patent and Trademark Office

Orders should be addressed to Patent and Trademark Office, Washington, D.C. 20231. Remittances should be made payable to Commissioner of Patents and Trademarks. Postage stamps, Superintendent of Documents coupons or other Government coupons are not acceptable in payment of Patent and Trademark Office fees.

Q & A About Patents. Brief nontechnical answers to questions most frequently asked about Patents.

Q & A About Plant Patents. Same as above for plant patents.

Patents. Copies of the specification and drawings of all patents are available at one dollar and fifty cents each. When ordering, identify the patent by the patent number, or give full name of the inventor and approximate date of issuance of the patent.

Classification Definitions. Contain the changes in classification of patents as well as definitions of new and revised classes and subclasses. Price is based upon size of publication.

Weekly Class Sheets. Lists showing classification of each patent in the weekly issue of the *Patent Official Gazette*.