

Reporting and record keeping requirements, Small businesses.

For the reasons set forth in the preamble, 37 CFR part 1 is proposed to be amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.3 is revised to read as follows:

§ 1.3 Business to be conducted with decorum and courtesy.

Applicants and their attorneys or agents are required to conduct their business with the United States Patent and Trademark Office with decorum and courtesy. Papers presented in violation of this requirement will be submitted to the Director and will not be entered. Complaints against examiners and other employees must be made in correspondence separate from other papers.

3. Section 1.9 is amended by adding paragraph (R) to read as follows:

§ 1.9 Definitions.

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(R) Paper as used in this Chapter means a document that may exist in electronic, computer readable form or in physical form, and therefore does not necessarily imply physical sheets of paper.

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4. Section 1.14 is revised to read as follows:

§ 1.14 Patent applications preserved in confidence.

(a) *Confidentiality of patent application information.* Patent applications that have not been published under 35 U.S.C. 122(b) are generally preserved in confidence pursuant to 35 U.S.C. 122(a). Information concerning the filing, pendency, or subject matter of an application for patent, including status information, and access to the application, will only be given to the public as set forth in § 1.11 or in this section.

(1) Records associated with patent applications other than international applications (see paragraph (h) of this section for international applications) shall be available in the following situations:

(i) *Patented applications and Statutory Invention Registrations.* The file of an application that has issued as a patent or published as a statutory invention registration is available to the

public as set forth in § 1.11(a). A copy of the patent application-as-filed, the file contents of the application, or a specific document in the file of such an application shall be provided upon request and payment of the appropriate fee set forth in § 1.19(b).

(ii) *Published abandoned applications.* The file of an abandoned application that has been published as a patent application publication is available to the public as set forth in § 1.11(a). A copy of the application-as-filed, the file contents of the published application, or a specific document in the file of the published application shall be provided to any person upon request, and payment of the appropriate fee set forth in § 1.19(b).

(iii) *Published pending applications.* A copy of the application-as-filed, the file contents of the published application, or a specific document in the file of a pending application that has been published as a patent application publication shall be provided to any person upon request, and payment of the appropriate fee set forth in § 1.19(b). If a redacted copy of the application was used for the patent application publication, the copy of the specification, drawings, and papers may be limited to a redacted copy. The Office will not provide access to the paper file of a pending application that has been published, except as provided in paragraph (c) or (i) of this section.

(iv) *Unpublished abandoned applications (including provisional applications) that are referenced in certain documents.* The file contents of an abandoned application that is referenced in a U.S. patent, Statutory Invention Registration, a U.S. patent application publication, or an international patent application publication of an international application that was published in accordance with PCT Article 21(2) are available to the public, if a written request is submitted. Also, the file contents of an abandoned application that is relied upon under 35 U.S.C. 119(e), 120, 121, or 365 by an application that has issued as a U.S. patent, or in an application that has been published as a Statutory Invention Registration, U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2) are available to the public, if a written request is submitted. A copy of the application-as-filed, the file contents of the application, or a specific document in the file of the application shall be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)).

(v) *Unpublished pending applications that are referenced in certain documents.* A copy of the application-as-filed of a pending application that is referenced in a U.S. patent, Statutory Invention Registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2) shall be provided to any person upon written request, including the fee set forth in § 1.19(b)(1). Also, a copy of the application-as-filed of a pending application that is relied upon under 35 U.S.C. 119(e), 120, 121, or 365 by an application that has issued as a U.S. patent, or in an application that has been published as a Statutory Invention Registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2) shall be provided to any person upon written request, including the fee set forth in § 1.19(b)(1). Until the application is abandoned, patented, or published as a Statutory Invention Registration or a U.S. patent application publication, a granted petition for access (see paragraph (i) of this section), or a power to inspect (see paragraph (c) of this section) is necessary to obtain the file of the application.

(vi) *Applications that were not published or patented, and are not referenced in a U.S. patent, a Statutory Invention Registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2), or relied upon under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, or been published as a Statutory Invention Registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2).* Applications that were not published or patented, and are not referenced in a U.S. patent, a Statutory Invention Registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2) are not available to the public, unless the application that issued as the U.S. patent or was published as the Statutory Invention Registration, U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2) claims the benefit of the application under 35 U.S.C. 119(e), 120, 121, or 365.