

font size of 12 (0.422 cm. or 0.166 inch high) is significantly more reproducible. Accordingly, § 1.52(b)(2)(ii) is proposed to be amended to indicate a preference for a larger font size. See § 1.58(c) for a similar change.

Further, § 1.52 is proposed to be amended to allow greater flexibility in filing tables on compact disc, so that compact disc files may be used instead of paper where the total number of pages collectively occupied by all the tables in an application exceeds 100. Also, § 1.52 is proposed to be clarified to be consistent with tables submitted on paper as to what constitutes a page. Section 1.52 is proposed to be amended to recite that CD-R discs should be finalized so that they are closed to further writing.

Section 1.52(e)(1)(iii) is proposed to be amended to allow tables of any size on compact disc if the total number of pages of tables exceeds 100 pages. Since permitting the filing of tables on compact disc, the Office has received voluminous applications having large numbers of tables that were under 50 pages in length. Applicants have indicated that it would be less burdensome filing these small tables on compact disc. Accordingly, the rule is being liberalized while balancing the convenience of the Office and the public to view the document with the least burden imposed by dual media.

Section 1.52(e)(1)(iii) is also proposed to be amended to clarify what constitutes an electronic page so as to determine compliance with the 50- and 100-page requirement for submission of tables on compact disc.

Further clarification is proposed to be provided in § 1.52(e)(3)(i) as to what is a permanent compact disc. Recordable compact discs can be made for recording in a single recording session or in multiple recording sessions. To further assure the archival nature of the discs, the requirement that recordable discs be finalized so that they are closed to further recording is proposed to be added to § 1.52. Further, many older CD-ROM drives and audio CD players have compatibility problems with unfinalized CDs. This proposed change will ensure that the public and the Office will be able to use identical copies of any CDs filed with older CD-ROM drives.

The Office is actively investigating allowing the submission of other file formats, such as the Continuous Acquisition and Life Cycle Support (CALS) XML format, in addition to the current ASCII format. Before allowing the use of a file format, the Office must verify that applicants will have the tools to create files easily that are archivable

and can be rendered to be viewable both by the Office users and later by the public when the application is published. Problems involving file size limitations, software display, and availability of adequate table creation software are delaying implementation at this time. The Office intends to broaden § 1.52 to allow at least CALS format tables when these problems are resolved. Technical specifications and a discussion of operability issues for the CALS table format may be found at the OASIS, *i.e.*, Organization for the Advancement of Structured Information Standards, Web site pages <http://www.oasis-open.org/cover/tr9502.html> and <http://www.oasis-open.org/specs/a501.htm>.

The Office is also reviewing the acceptability of DVD media. At present, there are several different types of recordable DVD media and it is unclear which if any will become a standard archivable format. Also, the Office is upgrading its capabilities to include the ability to read at least some types of DVD media. However, it does not appear that any DVD readers can be procured that will be able to read all of the different types of DVD media that are now in the marketplace. The Office is considering allowing submissions on at least some types of DVD media when it becomes clear which types of DVD media are recognized as of archivable quality and are compatible with Office hardware and software.

**Section 1.53:** Section 1.53(e)(2) is proposed to be amended to refer to the petition fee set forth in § 1.17(f) for consistency with the change to § 1.17. See discussion of § 1.17.

**Section 1.55:** Section 1.55(a)(1)(ii) is proposed to be amended to replace "an application that entered the national stage from an international application after compliance with 35 U.S.C. 371" with "an international application designating the United States" (any application that enters the national stage from an international application after compliance with 35 U.S.C. 371 is also an "international application designating the United States"). While section 4508 of the American Inventors Protection Act of 1999 (AIPA) as originally enacted did not make the eighteen-month publication amendments to 35 U.S.C. 119 and 120 applicable to an international application unless and until it enters the national stage under 35 U.S.C. 371 (see Public Law 106–113, 113 Stat. 1501, 1501A–566 through 1501A–567 (1999)), section 13205 of Public Law 107–273 amended section 4508 of the AIPA to make the eighteen-month publication amendments to 35 U.S.C. 119 and 120

in the AIPA also applicable during the international stage of an international application. See 116 Stat. 1758, 1903 (2002).

Section 1.55(a)(1) is also proposed to be amended to add a paragraph (a)(1)(iii) to provide that if an application claiming the benefit of a prior foreign application meets the twelve-month filing period requirement in 35 U.S.C. 119(a) only through one or more prior-filed nonprovisional applications or international applications designating the United States for which a benefit is claimed under 35 U.S.C. 120, 121, or 365(c) and § 1.78(a), each such prior-filed application must also contain a claim for priority in compliance with § 1.55 to the prior foreign application. 35 U.S.C. 119(b)(1) provides that an application for patent is not entitled to priority under 35 U.S.C. 119(a)–(d) unless a claim is filed in the Office at such time during the pendency of the application as required by the Director. 35 U.S.C. 119(b)(2) also provides that the Director may consider the failure of the applicant to file a timely claim for priority as a waiver of any such claim, and that the Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed claim under 35 U.S.C. 119(a)–(d). This time period requirement is to ensure that priority claims under 35 U.S.C. 119(a)–(d) are presented in sufficient time to permit publication of the application at eighteen months from the earliest claimed priority date under 35 U.S.C. 119(a)–(d). See 145 Cong. Rec. S14,708, S14,719 (1999) (daily ed. Nov. 17, 1999) (the Conference Report for H.R. 3194, 106th Cong., 1st. Sess. (1999), which resulted in Public Law 106–113, does not contain any discussion (other than the incorporated language) of S. 1948; however, a section-by-section analysis of S. 1948 was printed in the Congressional Record at the request of Senator Lott). In addition, priority claims must be presented in a timely manner in a PCT international application filed under 35 U.S.C. 363 to determine (among other things) the time limit for national stage entry. Therefore, the Office is proposing to amend § 1.55(a) to add a paragraph (a)(1)(iii) to make clear that the first-filed application in a chain of applications (as well as all intermediate applications) must contain a claim for priority in compliance with § 1.55 to a prior foreign application for a subsequent application to claim the benefit of the prior foreign application through the first-filed application (and all intermediate applications).