

identified real party in interest. Where anonymity of the real party in interest is desired, the protestor may provide, in place of the statement identifying the real party in interest, a substitute statement that the protest is, to the best of the knowledge of the submitting party, the first protest being submitted by the real party in interest. The substitute statement must be accompanied by a processing fee under § 1.17(i).

(c) Where the protest is entered into the record of the application, the items of information submitted with the protest, and the argument directed toward such items, will be considered by the examiner, if the protest includes:

(1) A listing of the patents, publications, or other information relied upon;

(2) A concise explanation of the relevance of each item listed pursuant to paragraph (c)(1);

(3) A copy of each listed patent, publication, or other item of information in written form, or at least the pertinent portions thereof;

(4) An English language translation of all the necessary and pertinent parts of any non-English language patent, publication, or other item of information relied upon; and

(5) If a second or subsequent protest by the same party, an explanation why the additional art issues are significantly different and why they were not earlier presented.

(d) A member of the public filing a protest in an application under this section will not receive any communication from the Office relating to the protest, other than the return of a self-addressed postcard which the member of the public may include with the protest in order to receive an acknowledgment by the Office that the protest has been received. The limited involvement of the member of the public filing a protest pursuant to this section ends with the filing of the protest, and no further submission on behalf of the protestor will be considered, unless the submission is accompanied by an explanation pursuant to paragraph (c)(5) of this section.

(e) Where a protest raising inequitable conduct issues satisfies the provisions of this section for entry, it will be entered into the application file, generally without comment on the inequitable conduct issues raised in it.

(f) In the absence of a request by the Office, an applicant has no duty to, and need not, reply to a protest.

(g) In order for a protest submitted after the application publication date to be accepted, the protest must be

accompanied by the written consent of the applicant to the filing of the protest being submitted.

44. Section 1.295 is amended by revising paragraph (a) to read as follows:

**§ 1.295 Review of decision finally refusing to publish a statutory invention registration.**

(a) Any requester who is dissatisfied with the final refusal to publish a statutory invention registration for reasons other than compliance with 35 U.S.C. 112 may obtain review of the refusal to publish the statutory invention registration by filing a petition to the Director accompanied by the fee set forth in § 1.17(g) within one month or such other time as is set in the decision refusing publication. Any such petition should comply with the requirements of § 1.181(b). The petition may include a request that the petition fee be refunded if the final refusal to publish a statutory invention registration for reasons other than compliance with 35 U.S.C. 112 is determined to result from an error by the Patent and Trademark Office.

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45. Section 1.296 is revised to read as follows:

**§ 1.296 Withdrawal of request for publication of statutory invention registration.**

A request for a statutory invention registration, which has been filed, may be withdrawn prior to the date on which the notice of the intent to publish a statutory invention registration issued pursuant to § 1.294(c) by filing a request to withdraw the request for publication of a statutory invention registration. The request to withdraw may also include a request for a refund of any amount paid in excess of the application filing fee and a handling fee of \$130.00 which will be retained. Any request to withdraw the request for publication of a statutory invention registration filed on or after the date on which the notice of intent to publish issued pursuant to § 1.294(c) must be in the form of a petition accompanied by the fee set forth in § 1.17(g).

46. Section 1.311 is amended by revising paragraph (b) to read as follows:

**§ 1.311 Notice of allowance.**

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(b) An authorization to charge the issue fee or other post-allowance fees set forth in § 1.18 to a deposit account may be filed in an individual application only after mailing of the notice of allowance. The submission of either of the following after the mailing of a notice of allowance will operate as a request to charge the correct issue fee or

any publication fee due to any deposit account identified in a previously filed authorization to charge such fees:

(1) An incorrect issue fee or publication fee; or

(2) A fee transmittal form (or letter) for payment of issue fee or publication fee.

47. Section 1.324 is amended by revising paragraph (a) and the introductory text of paragraph (b) to read as follows:

**§ 1.324 Correction of inventorship in patent, pursuant to 35 U.S.C. 256.**

(a) Whenever through error a person is named in an issued patent as the inventor, or through error an inventor is not named in an issued patent and such error arose without any deceptive intention on his or her part, the Director, pursuant to 35 U.S.C. 256, may, on application of all the parties and assignees, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors. A request to correct inventorship of a patent involved in an interference must comply with the requirements of this section and must be accompanied by a motion under § 1.634.

(b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

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48. Section 1.377 is amended by revising paragraph (b) to read as follows:

**§ 1.377 Review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of patent.**

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(b) Any petition under this section must be filed within 2 months of the action complained of, or within such other time as may be set in the action complained of, and must be accompanied by the fee set forth in § 1.17(g). The petition may include a request that the petition fee be refunded if the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

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49. Section 1.378 is amended by revising paragraph (e) to read as follows:

**§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.**

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(e) Reconsideration of a decision refusing to accept a maintenance fee upon petition filed pursuant to paragraph (a) of this section may be