

obtained by filing a petition for reconsideration within two months of, or such other time as set in, the decision refusing to accept the delayed payment of the maintenance fee. Any such petition for reconsideration must be accompanied by the petition fee set forth in § 1.17(f). After decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director. If the delayed payment of the maintenance fee is not accepted, the maintenance fee and the surcharge set forth in § 1.20(i) will be refunded following the decision on the petition for reconsideration, or after the expiration of the time for filing such a petition for reconsideration, if none is filed. Any petition fee under this section will not be refunded unless the refusal to accept and record the maintenance fee is determined to result from an error by the Patent and Trademark Office.

50. Section 1.502 is revised to read as follows:

§ 1.502 Processing of prior art citations during an *ex parte* reexamination proceeding.

Citations by the patent owner under § 1.555 and by an *ex parte* reexamination requester under either § 1.510 or § 1.535 will be entered in the reexamination file during a reexamination proceeding. The entry in the patent file of citations submitted after the date of an order to reexamine pursuant to § 1.525 by persons other than the patent owner, or an *ex parte* reexamination requester under either § 1.510 or § 1.535, will be delayed until the reexamination proceeding has been terminated by the issuance and publication of a reexamination certificate. *See* § 1.902 for processing of prior art citations in patent and reexamination files during an *inter partes* reexamination proceeding filed under § 1.913.

51. Section 1.530 is amended by revising paragraph (k) to read as follows:

§ 1.530 Statement by patent owner in *ex parte* reexamination; amendment by patent owner in *ex parte* or *inter partes* reexamination; inventorship change in *ex parte* or *inter partes* reexamination.

(k) *Amendments not effective until certificate.* Although the Office actions will treat proposed amendments as though they have been entered, the proposed amendments will not be effective until the reexamination certificate is issued and published.

52. Section 1.550 is amended by revising paragraphs (c) and (d) to read as follows:

§ 1.550 Conduct of *ex parte* reexamination proceedings.

(c) The time for taking any action by a patent owner in an *ex parte* reexamination proceeding will be extended only for sufficient cause and for a reasonable time specified. Any request for such extension must be filed on or before the day on which action by the patent owner is due, but in no case will the mere filing of a request effect any extension. Any request for such extension must be accompanied by the petition fee set forth in § 1.17(g). *See* § 1.304(a) for extensions of time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action.

(d) If the patent owner fails to file a timely and appropriate response to any Office action or any written statement of an interview required under § 1.560(b), the prosecution in the *ex parte* reexamination proceeding will be concluded, and the Director will proceed to issue and publish a certificate terminating the reexamination proceeding under § 1.570 in accordance with the last action of the Office.

53. Section 1.570 is amended by revising its heading and paragraphs (a), (b) and (d) to read as follows:

§ 1.570 Issuance and publication of *ex parte* reexamination certificate terminates *ex parte* reexamination proceeding.

(a) To terminate an *ex parte* reexamination proceeding, the Director will issue and publish an *ex parte* reexamination certificate in accordance with 35 U.S.C. 307 setting forth the results of the *ex parte* reexamination proceeding and the content of the patent following the *ex parte* reexamination proceeding.

(b) An *ex parte* reexamination certificate will be issued and published in each patent in which an *ex parte* reexamination proceeding has been ordered under § 1.525 and has not been merged with any *inter partes* reexamination proceeding pursuant to § 1.989(a). Any statutory disclaimer filed by the patent owner will be made part of the *ex parte* reexamination certificate.

(d) If an *ex parte* reexamination certificate has been issued and published which cancels all of the claims of the patent, no further Office proceedings will be conducted with that patent or any reissue applications or any reexamination requests relating thereto.

54. Section 1.644 is amended by revising paragraphs (e) and (f) to read as follows:

§ 1.644 Petitions in interferences.

(e) Any petition under paragraph (a) of this section shall be accompanied by the petition fee set forth in § 1.17(f).

(f) Any request for reconsideration of a decision by the Director shall be filed within 14 days of the decision of the Director and must be accompanied by the fee set forth in § 1.17(f). No opposition to a request for reconsideration shall be filed unless requested by the Director. The decision will not ordinarily be modified unless such an opposition has been requested by the Director.

55. Section 1.666 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.666 Filing of interference settlement agreements.

(b) If any party filing the agreement or understanding under paragraph (a) of this section so requests, the copy will be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person upon petition accompanied by the fee set forth in § 1.17(f) and on a showing of good cause.

(c) Failure to file the copy of the agreement or understanding under paragraph (a) of this section will render permanently unenforceable such agreement or understanding and any patent of the parties involved in the interference or any patent subsequently issued on any application of the parties so involved. The Director may, however, upon petition accompanied by the fee set forth in § 1.17(f) and on a showing of good cause for failure to file within the time prescribed, permit the filing of the agreement or understanding during the six-month period subsequent to the termination of the interference as between the parties to the agreement or understanding.

56. Section 1.704 is amended by revising paragraph (d) to read as follows:

§ 1.704 Reduction of period of adjustment of patent term.

(d) A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination)