

expires. If an appeal to the U.S. Court of Appeals for the Federal Circuit has been filed, the patent owner's appeal is considered terminated when the mandate is issued by the Court. Upon termination of an appeal, if no other appeal is present, the prosecution in the reexamination proceeding will be concluded and the Director will issue and publish a certificate under § 1.997 terminating the reexamination proceeding.

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66. Section 1.997 is amended by revising its heading and paragraphs (a), (b), and (d) to read as follows:

§ 1.997 Issuance and publication of *inter partes* reexamination certificate terminates *inter partes* reexamination proceeding.

(a) To terminate an *inter partes* reexamination proceeding, the Director will issue and publish an *inter partes* reexamination certificate in accordance with 35 U.S.C. 316 setting forth the results of the *inter partes* reexamination proceeding and the content of the patent following the *inter partes* reexamination proceeding.

(b) A certificate will be issued and published in each patent in which an *inter partes* reexamination proceeding has been ordered under § 1.931. Any statutory disclaimer filed by the patent owner will be made part of the certificate.

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(d) If a 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.

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PART 5—SECRECY OF CERTAIN INVENTIONS AND LICENSES TO EXPORT AND FILE APPLICATIONS IN FOREIGN COUNTRIES

67. The authority citation for 37 CFR part 5 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), 41, 181–188, as amended by the Patent Law Foreign Filing Amendments Act of 1988, Pub. L. 100–418, 102 Stat. 1567; the Arms Export Control Act, as amended, 22 U.S.C. 2751 *et seq.*; the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.*; the Nuclear Non-Proliferation Act of 1978, 22 U.S.C. 3201 *et seq.*; and the delegations in the regulations under these Acts to the Director (15 CFR 370.10(j), 22 CFR 125.04, and 10 CFR 810.7).

68. Section 5.12 is amended by revising paragraph (b) to read as follows:

§ 5.12 Petition for license.

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(b) A petition for license must include the fee set forth in § 1.17(g) of this chapter, the petitioner's address, and full instructions for delivery of the requested license when it is to be delivered to other than the petitioner. The petition should be presented in letter form.

69. Section 5.15 is amended by revising paragraph (c) to read as follows:

§ 5.15 Scope of license.

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(c) A license granted under § 5.12(b) pursuant to § 5.13 or § 5.14 shall have the scope indicated in paragraph (a) of this section, if it is so specified in the license. A petition, accompanied by the required fee (§ 1.17(g)), may also be filed to change a license having the scope indicated in paragraph (b) of this section to a license having the scope indicated

in paragraph (a) of this section. No such petition will be granted if the copy of the material filed pursuant to § 5.13 or any corresponding United States application was required to be made available for inspection under 35 U.S.C. 181. The change in the scope of a license will be effective as of the date of the grant of the petition.

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70. Section 5.25 is amended by revising paragraph (a)(4) to read as follows:

§ 5.25 Petition for retroactive license.

(a) * * *

(4) The required fee (*see* § 1.17(g)). The explanation in paragraph (a)(3)(iii) must include a showing of facts rather than a mere allegation of action through error and without deceptive intent. The showing of facts as to the nature of the error should include statements by those persons having personal knowledge of the acts regarding filing in a foreign country and should be accompanied by copies of any necessary supporting documents such as letters of transmittal or instructions for filing. The acts which are alleged to constitute error without deceptive intent should cover the period leading up to and including each of the proscribed foreign filings.

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Dated: September 4, 2003.

Jon W. Dudas,

Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office.

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