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## List of Subjects

### 37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

### 37 CFR Part 5

Classified information, Exports, Foreign relations, Inventions and patents.

### 37 CFR Part 41

Administrative practice and procedure, Inventions and patents, Lawyers.

For the reasons stated in the preamble, the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office proposes to amend 37 CFR chapter I as follows:

## PART 1—RULES OF PRACTICE IN PATENT CASES

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

**Authority:** 35 U.S.C. 2(b)(2), unless otherwise noted.

### § 1.1 [Amended]

2. Remove and reserve § 1.1(a)(1)(iii).  
3. In § 1.4, revise paragraph (a)(2) to read as follows:

### § 1.4 Nature of correspondence and signature requirements.

(a) \* \* \*

(2) Correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in subpart B, §§ 1.31 to 1.378; of international applications in subpart C, §§ 1.401 to 1.499; of ex parte reexaminations of

patents in subpart D, §§ 1.501 to 1.570; of extension of patent term in subpart F, §§ 1.710 to 1.785; of inter partes reexaminations of patents in subpart H, §§ 1.902 to 1.997; and of the Board of Patent Appeals and Interferences in part 41 of this title.

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### § 1.5 [Amended]

4. Remove and reserve § 1.5(e).

### § 1.6 [Amended]

5. Remove and reserve § 1.6(d)(9).

### § 1.8 [Amended]

6. Remove and reserve § 1.8(a)(2)(i)(B) and (a)(2)(i)(C).

7. In § 1.9, revise paragraph (g) to read as follows:

### § 1.9 Definitions.

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(g) For definitions in Board of Patent Appeals and Interferences proceedings, see part 41 of this title.

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8. In § 1.14, revise paragraph (e) to read as follows:

### § 1.14 Patent applications preserved in confidence.

\* \* \* \* \*

(e) *Decisions on petition.* (1) Any decision on petition is available for public inspection without applicant's or patent owner's permission if rendered in a file open to the public pursuant to § 1.11 or in an application that has been published in accordance with §§ 1.211 through 1.221. The Office may independently publish any decision that is available for public inspection.

(2) Any decision on petition not publishable under paragraph (e)(1) of this section may be published or made available for public inspection if the Director believes that special circumstances warrant publication and the applicant does not, within two months after being notified of the intention to make the decision public, object in writing on the ground that the decision discloses a trade secret or other confidential information and states that such information is not otherwise publicly available. If a decision discloses such information, the applicant shall identify the deletions in the text of the decision considered necessary to protect the information. If the applicant considers that the entire decision must be withheld from the public to protect such information, the applicant must explain why. The applicant will be given time, not less than twenty days, to request reconsideration and seek court review before any contested portion of a

decision is made public over its objection. See § 2.27 for trademark applications.

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9. In § 1.17, remove and reserve paragraphs (b)–(d), and revise paragraph (h) to read as follows:

### § 1.17 Patent application and reexamination processing fees.

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(h) For filing a petition under one of the following sections which refers to this paragraph: \$130.00.

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.47—for filing by other than all the inventors or a person not the inventor.

§ 1.53(e)—to accord a filing date.

§ 1.59—for expungement and return of information.

§ 1.84—for accepting color drawings or photographs.

§ 1.91—for entry of a model or exhibit.

§ 1.102—to make an application special.

§ 1.103(a)—to suspend action in an application.

§ 1.138(c)—to expressly abandon an application to avoid publication.

§ 1.182—for decision on a question not specifically provided for.

§ 1.183—to suspend the rules.

§ 1.295—for review of refusal to publish a statutory invention registration.

§ 1.313—to withdraw an application from issue.

§ 1.314—to defer issuance of a patent.

§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of a patent.

§ 1.378(e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in an expired patent.

§ 1.741(b)—to accord a filing date to an application under § 1.740 for extension of a patent term.

§ 5.12—for expedited handling of a foreign filing license.

§ 5.15—for changing the scope of a license.

§ 5.25—for retroactive license.

§ 104.3—for waiver of a rule in Part 104 of this title.

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10. Revise § 1.36 to read as follows:

### § 1.36 Revocation of power of attorney; withdrawal of patent attorney or agent.

(a) A power of attorney, pursuant to § 1.32(b), may be revoked at any stage in the proceedings of a case by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest. A