

records, books, papers, or drawings within the jurisdiction of the United States Patent and Trademark Office and open to the public, will be furnished by the United States Patent and Trademark Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the appropriate fee.

(b) Certified copies of patents, patent application publications, and trademark registrations and of any records, books, papers, or drawings within the jurisdiction of the United States Patent and Trademark Office and open to the public or persons entitled thereto will be authenticated by the seal of the United States Patent and Trademark Office and certified by the Director, or in his or her name attested by an officer of the United States Patent and Trademark Office authorized by the Director, upon payment of the fee for the certified copy.

[65 FR 57051, Sept. 20, 2000]

§ 1.14 Patent applications preserved in confidence.

(a) *Confidentiality of patent application information.* Patent applications that have not been published under 35 U.S.C. 122(b) are generally preserved in confidence pursuant to 35 U.S.C. 122(a). Information concerning the filing, pendency, or subject matter of an application for patent, including status information, and access to the application, will only be given to the public as set forth in § 1.11 or in this section.

(1) *Status information* is:

(i) Whether the application is pending, abandoned, or patented;

(ii) Whether the application has been published under 35 U.S.C. 122(b); and

(iii) The application "numerical identifier" which may be:

(A) The eight-digit application number (the two-digit series code plus the six-digit serial number); or

(B) The six-digit serial number plus any one of the filing date of the national application, the international filing date, or date of entry into the national stage.

(2) Access is defined as providing the application file for review and copying of any material in the application file.

(b) *When status information may be supplied.* Status information of an ap-

plication may be supplied by the Office to the public if any of the following apply:

(1) Access to the application is available pursuant to paragraph (e) of this section;

(2) The application is referred to by its numerical identifier in a published patent document (*e.g.*, a U.S. patent, a U.S. patent application publication, or an international application publication), or in a U.S. application open to public inspection (§ 1.11(b), or paragraph (e)(2)(i) or (e)(2)(ii) of this section);

(3) The application is a published international application in which the United States of America has been indicated as a designated state; or

(4) The application claims the benefit of the filing date of an application for which status information may be provided pursuant to paragraphs (b)(1) through (b)(3) of this section.

(c) *When copies may be supplied.* A copy of an application-as-filed or a file wrapper and contents may be supplied by the Office to the public, subject to paragraph (i) of this section (which addresses international applications), if any of the following apply:

(1) *Application-as-filed.*

(i) If a U.S. patent application publication or patent incorporates by reference, or includes a specific reference under 35 U.S.C. 119(e) or 120 to, a pending or abandoned application, a copy of that application-as-filed may be provided to any person upon written request including the fee set forth in § 1.19(b)(1); or

(ii) If an international application, which designates the U.S. and which has been published in accordance with PCT Article 21(2), incorporates by reference or claims priority under PCT Article 8 to a pending or abandoned U.S. application, a copy of that application-as-filed may be provided to any person upon written request including a showing that the publication of the application in accordance with PCT Article 21(2) has occurred and that the U.S. was designated, and upon payment of the appropriate fee set forth in § 1.19(b)(1).

(2) *File wrapper and contents.* A copy of the specification, drawings, and all

papers relating to the file of an abandoned or pending published application may be provided to any person upon written request, including the fee set forth in § 1.19(b)(2). If a redacted copy of the application was used for the patent application publication, the copy of the specification, drawings, and papers may be limited to a redacted copy.

(d) *Power to inspect a pending or abandoned application.* Access to an application may be provided to any person if the application file is available, and the application contains written authority (e.g., a power to inspect) granting access to such person. The written authority must be signed by:

- (1) An applicant;
- (2) An attorney or agent of record;
- (3) An authorized official of an assignee of record (made of record pursuant to § 3.71 of this chapter); or
- (4) A registered attorney or agent named in the papers accompanying the application papers filed under § 1.53 or the national stage documents filed under § 1.495, if an executed oath or declaration pursuant to § 1.63 or § 1.497 has not been filed.

(e) *Public access to a pending or abandoned application.* Access to an application may be provided to any person, subject to paragraph (i) of this section, if a written request for access is submitted, the application file is available, and any of the following apply:

- (1) The application is open to public inspection pursuant to § 1.11(b); or
- (2) The application is abandoned, it is not within the file jacket of a pending application under § 1.53(d), and it is referred to:
 - (i) In a U.S. patent application publication or patent;
 - (ii) In another U.S. application which is open to public inspection either pursuant to § 1.11(b) or paragraph (e)(2)(i) of this section; or
 - (iii) In an international application which designates the U.S. and is published in accordance with PCT Article 21(2).

(f) *Applications reported to Department of Energy.* Applications for patents which appear to disclose, purport to disclose or do disclose inventions or discoveries relating to atomic energy are reported to the Department of Energy, which Department will be given

access to the applications. Such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or is an invention or discovery, or that such application in fact discloses subject matter in categories specified by 42 U.S.C. 2181(c) and (d).

(g) *Decisions by the Director or the Board of Patent Appeals and Interferences.* Any decision by the Director or the Board of Patent Appeals and Interferences which would not otherwise be open to public inspection may be published or made available for public inspection if:

- (1) The Director believes the decision involves an interpretation of patent laws or regulations that would be of precedential value; and
- (2) The applicant, or a party involved in an interference for which a decision was rendered, is given notice and an opportunity to object in writing within two months on the ground that the decision discloses a trade secret or other confidential information. Any objection must identify the deletions in the text of the decision considered necessary to protect the information, or explain why the entire decision must be withheld from the public to protect such information. An applicant or party will be given time, not less than twenty days, to request reconsideration and seek court review before any portions of a decision are made public under this paragraph over his or her objection.

(h) *Publication pursuant to § 1.47.* Information as to the filing of an application will be published in the *Official Gazette* in accordance with § 1.47(c).

(i) *International applications.*

(1) Copies of international application files for international applications which designate the U.S. and which have been published in accordance with PCT Article 21(2), or copies of a document in such application files, will be furnished in accordance with PCT Articles 30 and 38 and PCT Rules 94.2 and 94.3, upon written request including a showing that the publication of the application has occurred and that the U.S. was designated, and upon payment of the appropriate fee (see § 1.19(b)(2) or 1.19(b)(3)), if:

U.S. Patent and Trademark Office, Commerce

§ 1.14

(i) With respect to the Home Copy, the international application was filed with the U.S. Receiving Office;

(ii) With respect to the Search Copy, the U.S. acted as the International Searching Authority; or

(iii) With respect to the Examination Copy, the United States acted as the International Preliminary Examining Authority, an International Preliminary Examination Report has issued, and the United States was elected.

(2) A copy of an English language translation of an international application which has been filed in the United States Patent and Trademark Office pursuant to 35 U.S.C. 154(d)(4) will be furnished upon written request including a showing that the publication of the application in accordance with PCT Article 21(2) has occurred and that the U.S. was designated, and upon payment of the appropriate fee (§1.19(b)(2) or §1.19(b)(3)).

(3) Access to international application files for international applications which designate the U.S. and which have been published in accordance with PCT Article 21(2), or copies of a document in such application files, will be furnished in accordance with PCT Articles 30 and 38 and PCT Rules 94.2 and 94.3, upon written request including a showing that the publication of the application has occurred and that the U.S. was designated.

(4) In accordance with PCT Article 30, copies of an international application-as-filed under paragraph (c)(1) of this section will not be provided prior to the international publication of the application pursuant to PCT Article 21(2).

(5) Access to international application files under paragraphs (e) and (i)(3) of this section will not be permitted with respect to the Examination Copy in accordance with PCT Article 38.

(j) *Access or copies in other circumstances.* The Office, either *sua sponte* or on petition, may also provide access or copies of all or part of an application if necessary to carry out an Act of Congress or if warranted by other special circumstances. Any petition by a member of the public seeking access to, or copies of, all or part of any pending or abandoned application

preserved in confidence pursuant to paragraph (a) of this section, or any related papers, must include:

(1) The fee set forth in §1.17(h); and

(2) A showing that access to the application is necessary to carry out an Act of Congress or that special circumstances exist which warrant petitioner being granted access to all or part of the application.

[65 FR 54657, Sept. 8, 2000, as amended at 65 FR 57051, Sept. 20, 2000; 65 FR 78959, Dec. 18, 2000; 66 FR 67094, Dec. 28, 2001; 67 FR 523, Jan. 4, 2002]

EFFECTIVE DATE NOTE: At 68 FR 38624, June 30, 2003, §1.14 was revised, effective July 30, 2003. For the convenience of the user, the revised text is set forth as follows:

§ 1.14 Patent applications preserved in confidence.

(a) *Confidentiality of patent application information.* Patent applications that have not been published under 35 U.S.C. 122(b) are generally preserved in confidence pursuant to 35 U.S.C. 122(a). Information concerning the filing, pendency, or subject matter of an application for patent, including status information, and access to the application, will only be given to the public as set forth in §1.11 or in this section.

(1) Records associated with patent applications (see paragraph (g) for international applications) may be available in the following situations:

(i) *Patented applications and statutory invention registrations.* The file of an application that has issued as a patent or published as a statutory invention registration is available to the public as set forth in §1.11(a). A copy of the patent application-as-filed, the file contents of the application, or a specific document in the file of such an application may be provided upon request and payment of the appropriate fee set forth in §1.19(b).

(ii) *Published abandoned applications.* The file of an abandoned application that has been published as a patent application publication is available to the public as set forth in §1.11(a). A copy of the application-as-filed, the file contents of the published application, or a specific document in the file of the published application may be provided to any person upon request, and payment of the appropriate fee set forth in §1.19(b).

(iii) *Published pending applications.* A copy of the application-as-filed, the file contents of the application, or a specific document in the file of a pending application that has been published as a patent application publication may be provided to any person upon request, and payment of the appropriate fee set forth in §1.19(b). If a redacted copy of the

application was used for the patent application publication, the copy of the specification, drawings, and papers may be limited to a redacted copy. The Office will not provide access to the paper file of a pending application that has been published, except as provided in paragraph (c) or (h) of this section.

(iv) *Unpublished abandoned applications (including provisional applications) that are identified or relied upon.* The file contents of an unpublished, abandoned application may be made available to the public if the application is identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication of an international application that was published in accordance with PCT Article 21(2). An application is considered to have been identified in a document, such as a patent, when the application number or serial number and filing date, first named inventor, title and filing date or other application specific information are provided in the text of the patent, but not when the same identification is made in a paper in the file contents of the patent and is not included in the printed patent. Also, the file contents may be made available to the public, upon a written request, if benefit of the abandoned application is claimed under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, or has published as a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, the file contents of the application, or a specific document in the file of the application may be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)).

(v) *Unpublished pending applications (including provisional applications) whose benefit is claimed.* A copy of the file contents of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the benefit of the application is claimed under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, or a specific document in the file of the pending application may also be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (h) of this section.

(vi) *Unpublished pending applications (including provisional applications) that are incorporated by reference or otherwise identified.* A

copy of the application as originally filed of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the application is incorporated by reference or otherwise identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (h) of this section.

(vii) *When a petition for access or a power to inspect is required.* Applications that were not published or patented, that are not the subject of a benefit claim under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2), or are not identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2), are not available to the public. If an application is identified in the file contents of another application, but not the published patent application or patent itself, a granted petition for access (see paragraph (h)), or a power to inspect (see paragraph (c)) is necessary to obtain the application, or a copy of the application.

(2) Information concerning a patent application may be communicated to the public if the patent application is identified in paragraphs (a)(1)(i) through (a)(1)(vi) of this section. The information that may be communicated to the public (*i.e.*, status information) includes:

(i) Whether the application is pending, abandoned, or patented;

(ii) Whether the application has been published under 35 U.S.C. 122(b);

(iii) The application “numerical identifier” which may be:

(A) The eight-digit application number (the two-digit series code plus the six-digit serial number); or

(B) The six-digit serial number plus any one of the filing date of the national application, the international filing date, or date of entry into the national stage; and

(iv) Whether another application claims the benefit of the application (*i.e.*, whether there are any applications that claim the benefit of the filing date under 35 U.S.C. 119(e), 120, 121 or 365 of the application), and if there are any such applications, the numerical identifier of the application, the specified relationship between the applications (*e.g.*, continuation), whether the application is pending, abandoned or patented,

and whether the application has been published under 35 U.S.C. 122(b).

(b) *Electronic access to an application.* Where a copy of the application papers or access to the application may be made available pursuant to paragraphs (a)(1)(i) through (a)(1)(vi) of this section, the Office may at its discretion provide access to only an electronic copy of the specification, drawings, and file contents of the application.

(c) *Power to inspect a pending or abandoned application.* Access to an application may be provided to any person if the application file is available, and the application contains written authority (e.g., a power to inspect) granting access to such person. The written authority must be signed by:

- (1) An applicant;
- (2) An attorney or agent of record;
- (3) An authorized official of an assignee of record (made of record pursuant to §3.71 of this chapter); or
- (4) A registered attorney or agent named in the papers accompanying the application papers filed under §1.53 or the national stage documents filed under §1.495, if an executed oath or declaration pursuant to §1.63 or §1.497 has not been filed.

(d) *Applications reported to Department of Energy.* Applications for patents which appear to disclose, purport to disclose or do disclose inventions or discoveries relating to atomic energy are reported to the Department of Energy, which Department will be given access to the applications. Such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or is an invention or discovery, or that such application in fact discloses subject matter in categories specified by 42 U.S.C. 2181(c) and (d).

(e) *Decisions by the Director or the Board of Patent Appeals and Interferences.* Any decision by the Director or the Board of Patent Appeals and Interferences which would not otherwise be open to public inspection may be published or made available for public inspection if:

- (1) The Director believes the decision involves an interpretation of patent laws or regulations that would be of precedential value; and
- (2) The applicant, or a party involved in an interference for which a decision was rendered, is given notice and an opportunity to object in writing within two months on the ground that the decision discloses a trade secret or other confidential information. Any objection must identify the deletions in the text of the decision considered necessary to protect the information, or explain why the entire decision must be withheld from the public to protect such information. An applicant or party will be given time, not less than twenty days, to request reconsideration and seek court review before any portions of

a decision are made public under this paragraph over his or her objection.

(f) *Publication pursuant to §1.47.* Information as to the filing of an application will be published in the *Official Gazette* in accordance with §1.47(c).

(g) *International applications.* (1) Copies of international application files for international applications which designate the U.S. and which have been published in accordance with PCT Article 21(2), or copies of a document in such application files, will be furnished in accordance with PCT Articles 30 and 38 and PCT Rules 94.2 and 94.3, upon written request including a showing that the publication of the application has occurred and that the U.S. was designated, and upon payment of the appropriate fee (see §1.19(b)), if:

(i) With respect to the Home Copy (the copy of the international application kept by the Office in its capacity as the Receiving Office, see PCT Article 12(1)), the international application was filed with the U.S. Receiving Office;

(ii) With respect to the Search Copy (the copy of the international application kept by the Office in its capacity as the International Searching Authority, see PCT Article 12(1)), the U.S. acted as the International Searching Authority; or

(iii) With respect to the Examination Copy (the copy of an international application kept by the Office in its capacity as the International Preliminary Examining Authority), the United States acted as the International Preliminary Examining Authority, an International Preliminary Examination Report has issued, and the United States was elected.

(2) A copy of an English language translation of a publication of an international patent application which has been filed in the United States Patent and Trademark Office pursuant to 35 U.S.C. 154(2)(d)(4) will be furnished upon written request including a showing that the publication of the application in accordance with PCT Article 21(2) has occurred and that the U.S. was designated, and upon payment of the appropriate fee (§1.19(b)(4)).

(3) Access to international application files for international applications which designate the U.S. and which have been published in accordance with PCT Article 21(2), or copies of a document in such application files, will be permitted in accordance with PCT Articles 30 and 38 and PCT Rules 94.2 and 94.3, upon written request including a showing that the publication of the application has occurred and that the U.S. was designated.

(4) In accordance with PCT Article 30, copies of an international application-as-filed under paragraph (a) of this section will not

§ 1.15

be provided prior to the international publication of the application pursuant to PCT Article 21(2).

(5) Access to international application files under paragraphs (a)(1)(i) through (a)(1)(vi) and (h)(3) of this section will not be permitted with respect to the Examination Copy in accordance with PCT Article 38.

(h) *Access or copies in other circumstances.* The Office, either *sua sponte* or on petition, may also provide access or copies of all or part of an application if necessary to carry out an Act of Congress or if warranted by other special circumstances. Any petition by a member of the public seeking access to, or copies of, all or part of any pending or abandoned application preserved in confidence pursuant to paragraph (a) of this section, or any related papers, must include:

(1) The fee set forth in §1.17(h); and

(2) A showing that access to the application is necessary to carry out an Act of Congress or that special circumstances exist which warrant petitioner being granted access to all or part of the application.

§ 1.15 [Reserved]

FEES AND PAYMENT OF MONEY

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except provisional, design, or plant applications:

By a small entity (§1.27(a))—\$375.00
By other than a small entity—\$750.00

(b) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§1.27(a))—\$42.00
By other than a small entity—\$84.00

(c) In addition to the basic filing fee in an original application, except provisional applications, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 (Note that §1.75(c) indicates how multiple dependent claims are considered for fee calculation purposes.):

By a small entity (§1.27(a)) \$9.00
By other than a small entity .. \$18.00

(d) In addition to the basic filing fee in an original application, except provisional applications, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§1.27(a))—\$140.00

By other than a small entity—\$280.00

(e) Surcharge for filing the basic filing fee or oath or declaration on a date later than the filing date of the application, except provisional applications:

By a small entity (§1.27(a)) \$65.00
By other than a small entity .. \$130.00

(f) Basic fee for filing each design application:

By a small entity (§1.27(a))—\$165.00
By other than a small entity—\$330.00

(g) Basic fee for filing each plant application, except provisional applications:

By a small entity (§1.27(a))—\$260.00
By other than a small entity—\$520.00

(h) Basic fee for filing each reissue application:

By a small entity (§1.27(a))—\$375.00
By other than a small entity—\$750.00

(i) In addition to the basic filing fee in a reissue application, for filing or later presentation of each independent claim which is in excess of the number of independent claims in the original patent:

By a small entity (§1.27(a))—\$42.00
By other than a small entity—\$84.00

(j) In addition to the basic filing fee in a reissue application, for filing or later presentation of each claim (whether independent or dependent) in excess of 20 and also in excess of the number of claims in the original patent (Note that §1.75(c) indicates how multiple dependent claims are considered for fee purposes.):

By a small entity (§1.27(a)) \$9.00
By other than a small entity .. \$18.00

(k) Basic fee for filing each provisional application:

By a small entity (§1.27(a))—\$80.00
By other than a small entity—\$160.00

(l) Surcharge for filing the basic filing fee or cover sheet (§1.51(c)(1)) on a date later than the filing date of the provisional application:

By a small entity (§1.27(a)) \$25.00
By other than a small entity .. \$50.00

(m) If the additional fees required by paragraphs (b), (c), (d), (i) and (j) of this section are not paid on filing or on later presentation of the claims for