

§5.13

a license is granted. If the initial automatic petition is not granted, a subsequent petition may be filed under paragraph (b) of this section.

(b) Petitions for license should be presented in letter form, and must include the petitioner's address and full instructions for delivery of the requested license when it is to be delivered to other than the petitioner. If expedited handling of the petition under this paragraph is sought, the petition must also include the fee set forth in §1.17(h).

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2714, Jan. 20, 1983, as amended at 49 FR 13462, Apr. 4, 1984; 62 FR 53204, Oct. 10, 1997]

§5.13 Petition for license; no corresponding application.

If no corresponding national or international application has been filed in the United States, the petition for license under §5.12(b) must also be accompanied by a legible copy of the material upon which a license is desired. This copy will be retained as a measure of the license granted.

[62 FR 53204, Oct. 10, 1997]

§5.14 Petition for license; corresponding U.S. application.

(a) When there is a corresponding United States application on file, a petition for license under §5.12(b) must also identify this application by application number, filing date, inventor, and title, but a copy of the material upon which the license is desired is not required. The subject matter licensed will be measured by the disclosure of the United States application.

(b) Two or more United States applications should not be referred to in the same petition for license unless they are to be combined in the foreign or international application, in which event the petition should so state and the identification of each United States application should be in separate paragraphs.

(c) When the application to be filed or exported abroad contains matter not disclosed in the United States application or applications, including the case where the combining of two or more United States applications introduces

37 CFR Ch. I (7-1-00 Edition)

subject matter not disclosed in any of them, a copy of the application as it is to be filed in the foreign country or international application which is to be transmitted to a foreign international or national agency for filing in the Receiving Office, must be furnished with the petition. If however, all new matter in the foreign or international application to be filed is readily identifiable, the new matter may be submitted in detail and the remainder by reference to the pertinent United States application or applications.

(Pub. L. 94-131, 89 Stat. 685)

[43 FR 20471, May 11, 1978, as amended at 49 FR 13462, Apr. 4, 1984; 62 FR 53204, Oct. 10, 1997]

§5.15 Scope of license.

(a) Applications or other materials reviewed pursuant to §§5.12 through 5.14, which were not required to be made available for inspection by defense agencies under 35 U.S.C. 181, will be eligible for a license of the scope provided in this paragraph. This license permits subsequent modifications, amendments, and supplements containing additional subject matter to, or divisions of, a foreign patent application, if such changes to the application do not alter the general nature of the invention in a manner which would require the United States application to have been made available for inspection under 35 U.S.C. 181. Grant of this license authorizing the export and filing of an application in a foreign country or the transmitting of an international application to any foreign patent agency or international patent agency when the subject matter of the foreign or international application corresponds to that of the domestic application. This license includes authority:

(1) To export and file all duplicate and formal application papers in foreign countries or with international agencies;

(2) To make amendments, modifications, and supplements, including divisions, changes or supporting matter consisting of the illustration, exemplification, comparison, or explanation of subject matter disclosed in the application; and