

basis of the petition. When prior publications or patents are alleged the petition must give complete data as to such publications or patents and should be accompanied by copies thereof.

(c) The petition must identify any contract between the Government and any of the principals, under which the subject matter of the application or any significant part thereof was developed, or to which the subject matter is otherwise related. If there is no such contract, the petition must so state.

(d) Appeal to the Secretary of Commerce, as provided by 35 U.S.C. 181, from a secrecy order cannot be taken until after a petition for rescission of the secrecy order has been made and denied. Appeal must be taken within sixty days from the date of the denial, and the party appealing, as well as the department or agency which caused the order to be issued, will be notified of the time and place of hearing.

[24 FR 10381, Dec. 22, 1959, as amended at 62 FR 53204, Oct. 10, 1997]

§ 5.5 Permit to disclose or modification of secrecy order.

(a) Consent to disclosure, or to the filing of an application abroad, as provided in 35 U.S.C. 182, shall be made by a "permit" or "modification" of the secrecy order.

(b) Petitions for a permit or modification must fully recite the reason or purpose for the proposed disclosure. Where any proposed disclosee is known to be cleared by a defense agency to receive classified information, adequate explanation of such clearance should be made in the petition including the name of the agency or department granting the clearance and the date and degree thereof. The petition must be filed in duplicate.

(c) In a petition for modification of a secrecy order to permit filing abroad, all countries in which it is proposed to file must be made known, as well as all attorneys, agents and others to whom the material will be consigned prior to being lodged in the foreign patent office. The petition should include a statement vouching for the loyalty and integrity of the proposed disclosees and where their clearance status in this or

the foreign country is known all details should be given.

(d) Consent to the disclosure of subject matter from one application under secrecy order may be deemed to be consent to the disclosure of common subject matter in other applications under secrecy order so long as not taken out of context in a manner disclosing material beyond the modification granted in the first application.

(e) Organizations requiring consent for disclosure of applications under secrecy order to persons or organizations in connection with repeated routine operation may petition for such consent in the form of a general permit. To be successful such petitions must ordinarily recite the security clearance status of the disclosees as sufficient for the highest classification of material that may be involved.

[24 FR 10381, Dec. 22, 1959, as amended at 62 FR 53204 Oct. 10, 1997]

§§ 5.6-5.8 [Reserved]

LICENSES FOR FOREIGN EXPORTING AND FILING

§ 5.11 License for filing in a foreign country an application on an invention made in the United States or for transmitting an international application.

(a) A license from the Commissioner for Patents under 35 U.S.C. 184 is required before filing any application for patent including any modifications, amendments, or supplements thereto or divisions thereof or for the registration of a utility model, industrial design, or model, in a foreign patent office or any foreign patent agency or any international agency other than the United States Receiving Office, if the invention was made in the United States and:

(1) An application on the invention has been on file in the United States less than six months prior to the date on which the application is to be filed, or

(2) No application on the invention has been filed in the United States.

(b) The license from the Commissioner for Patents referred to in paragraph (a) would also authorize the export of technical data abroad for purposes relating to the preparation, filing