

§ 1.325

(2) A statement from the current named inventors who have not submitted a statement under paragraph (b)(1) of this section either agreeing to the change of inventorship or stating that they have no disagreement in regard to the requested change;

(3) A statement from all assignees of the parties submitting a statement under paragraphs (b)(1) and (b)(2) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(b) of this chapter; and

(4) The fee set forth in § 1.20(b).

(c) For correction of inventorship in an application, see §§ 1.48 and 1.497.

(d) In a contested case before the Board of Patent Appeals and Interferences under part 41, subpart D, of this title, a request for correction of a patent must be in the form of a motion under § 41.121(a)(2) or § 41.121(a)(3) of this title.

[62 FR 53199, Oct. 10, 1997, as amended at 65 FR 54677, Sept. 8, 2000; 69 FR 50001, Aug. 12, 2004; 69 FR 56545, Sept. 21, 2004; 70 FR 3891, Jan. 27, 2005]

§ 1.325 Other mistakes not corrected.

Mistakes other than those provided for in §§ 1.322, 1.323, 1.324, and not affording legal grounds for reissue or for reexamination, will not be corrected after the date of the patent.

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

[48 FR 2714, Jan. 20, 1983]

ARBITRATION AWARDS

§§ 1.331-1.334 [Reserved]

§ 1.335 Filing of notice of arbitration awards.

(a) Written notice of any award by an arbitrator pursuant to 35 U.S.C. 294 must be filed in the Patent and Trademark Office by the patentee, or the patentee's assignee or licensee. If the award involves more than one patent a separate notice must be filed for placement in the file of each patent. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the award.

37 CFR Ch. I (7-1-12 Edition)

(b) If an award by an arbitrator pursuant to 35 U.S.C. 294 is modified by a court, the party requesting the modification must file in the Patent and Trademark Office, a notice of the modification for placement in the file of each patent to which the modification applies. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the court's order modifying the award.

(c) Any award by an arbitrator pursuant to 35 U.S.C. 294 shall be unenforceable until any notices required by paragraph (a) or (b) of this section are filed in the Patent and Trademark Office. If any required notice is not filed by the party designated in paragraph (a) or (b) of this section, any party to the arbitration proceeding may file such a notice.

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

[48 FR 2714, Jan. 20, 1983]

AMENDMENT OF RULES

§ 1.351 Amendments to rules will be published.

All amendments to the regulations in this part will be published in the *Official Gazette* and in the FEDERAL REGISTER.

§ 1.352 [Reserved]

MAINTENANCE FEES

§ 1.362 Time for payment of maintenance fees.

(a) Maintenance fees as set forth in §§ 1.20 (e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.

(b) Maintenance fees are not required for any plant patents or for any design patents. Maintenance fees are not required for a reissue patent if the patent being reissued did not require maintenance fees.

(c) The application filing dates for purposes of payment of maintenance fees are as follows:

(1) For an application not claiming benefit of an earlier application, the actual United States filing date of the application.

(2) For an application claiming benefit of an earlier foreign application under 35 U.S.C. 119, the United States filing date of the application.

(3) For a continuing (continuation, division, continuation-in-part) application claiming the benefit of a prior patent application under 35 U.S.C. 120, the actual United States filing date of the continuing application.

(4) For a reissue application, including a continuing reissue application claiming the benefit of a reissue application under 35 U.S.C. 120, United States filing date of the original non-reissue application on which the patent reissued is based.

(5) For an international application which has entered the United States as a Designated Office under 35 U.S.C. 371, the international filing date granted under Article 11(1) of the Patent Cooperation Treaty which is considered to be the United States filing date under 35 U.S.C. 363.

(d) Maintenance fees may be paid in patents without surcharge during the periods extending respectively from:

(1) 3 years through 3 years and 6 months after grant for the first maintenance fee,

(2) 7 years through 7 years and 6 months after grant for the second maintenance fee, and

(3) 11 years through 11 years and 6 months after grant for the third maintenance fee.

(e) Maintenance fees may be paid with the surcharge set forth in §1.20(h) during the respective grace periods after:

(1) 3 years and 6 months and through the day of the 4th anniversary of the grant for the first maintenance fee.

(2) 7 years and 6 months and through the day of the 8th anniversary of the grant for the second maintenance fee, and

(3) 11 years and 6 months and through the day of the 12th anniversary of the grant for the third maintenance fee.

(f) If the last day for paying a maintenance fee without surcharge set forth in paragraph (d) of this section, or the last day for paying a maintenance fee

with surcharge set forth in paragraph (e) of this section, falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the maintenance fee and any necessary surcharge may be paid under paragraph (d) or paragraph (e) respectively on the next succeeding day which is not a Saturday, Sunday, or federal holiday.

(g) Unless the maintenance fee and any applicable surcharge is paid within the time periods set forth in paragraphs (d), (e) or (f) of this section, the patent will expire as of the end of the grace period set forth in paragraph (e) of this section. A patent which expires for the failure to pay the maintenance fee will expire at the end of the same date (anniversary date) the patent was granted in the 4th, 8th, or 12th year after grant.

(h) The periods specified in §§1.362 (d) and (e) with respect to a reissue application, including a continuing reissue application thereof, are counted from the date of grant of the original non-reissue application on which the reissued patent is based.

[49 FR 34724, Aug. 31, 1984, as amended at 56 FR 65154, Dec. 13, 1991; 58 FR 54511, Oct. 22, 1993]

§ 1.363 Fee address for maintenance fee purposes.

(a) All notices, receipts, refunds, and other communications relating to payment or refund of maintenance fees will be directed to the correspondence address used during prosecution of the application as indicated in §1.33(a) unless:

(1) A fee address for purposes of payment of maintenance fees is set forth when submitting the issue fee, or

(2) A change in the correspondence address for all purposes is filed after payment of the issue fee, or

(3) A fee address or a change in the "fee address" is filed for purposes of receiving notices, receipts and other correspondence relating to the payment of maintenance fees after the payment of the issue fee, in which instance, the latest such address will be used.

(b) An assignment of a patent application or patent does not result in a change of the "correspondence address" or "fee address" for maintenance fee purposes.