

(2) A list of the items of information that are requested to be considered, reconsidered, or corrected. Where appropriate, the list must meet the requirements of § 1.98(b).

(3) A list identifying any other prior or concurrent post-patent Office proceedings involving the patent for which supplemental examination is being requested, including an identification of the type of proceeding, the identifying number of any such proceeding (*e.g.*, a control number or reissue application number), and the filing date of any such proceeding.

(4) An identification of each claim of the patent for which supplemental examination is requested.

(5) A separate, detailed explanation of the relevance and manner of applying each item of information to each claim of the patent for which supplemental examination is requested.

(6) A copy of the patent for which supplemental examination is requested and a copy of any disclaimer or certificate issued for the patent.

(7) A copy of each item of information listed in paragraph (b)(2) of this section, accompanied by a written English translation of all of the necessary and pertinent parts of any non-English language item of information. The patent owner is not required to submit copies of items of information that form part of the discussion within the body of the request as specified in § 1.605(b), or copies of U.S. patents and U.S. patent application publications.

(8) A summary of the relevant portions of any submitted document, other than the request, that is over 50 pages in length. The summary must include citations to the particular pages containing the relevant portions.

(9) An identification of the owner(s) of the entire right, title, and interest in the patent requested to be examined, and a submission by the patent owner in compliance with § 3.73(c) of this chapter establishing the entirety of the ownership in the patent requested to be examined.

(c) The request may also include:

(1) A cover sheet itemizing each component submitted as part of the request;

(2) A table of contents for the request;

(3) An explanation of how the claims patentably distinguish over the items of information; and

(4) An explanation of why each item of information submitted with the request does or does not raise a substantial new question of patentability.

(d) The filing date of a request for supplemental examination will not be granted if the request is not in compliance with §§ 1.605, 1.615, and this section, subject to the discretion of the Office. If the Office determines that the request, as originally submitted, is not entitled to a filing date, the patent owner will be so notified and will be given an opportunity to complete the request within a specified time. If the patent owner does not timely comply with the notice, the request for supplemental examination will not be granted a filing date and the fee for reexamination as set forth in § 1.20(k)(2) will be refunded. If the patent owner timely files a corrected request in response to the notice that properly addresses all of the defects set forth in the notice and that otherwise complies with all of the requirements of §§ 1.605, 1.615, and this section, the filing date of the supplemental examination request will be the receipt date of the corrected request.

§ 1.615 Format of papers filed in a supplemental examination proceeding.

(a) All papers submitted in a supplemental examination proceeding must be formatted in accordance with § 1.52.

(b) Court documents and non-patent literature may be redacted, but must otherwise be identical both in content and in format to the original documents, and, if a court document, to the document submitted in court, and must not otherwise be reduced in size or modified, particularly in terms of font type, font size, line spacing, and margins. Patents, patent application publications, and third-party-generated affidavits or declarations must not be reduced in size or otherwise modified in the manner described in this paragraph.

§ 1.620 Conduct of supplemental examination proceeding.

(a) Within three months after the filing date of a request for supplemental

examination, the Office will determine whether a substantial new question of patentability affecting any claim of the patent is raised by any of the items of information presented in the request. The determination will generally be limited to a review of the item(s) of information identified in the request as applied to the identified claim(s) of the patent. The determination will be based on the claims in effect at the time of the determination and will become a part of the official record of the patent.

(b) The Office may hold in abeyance action on any petition or other paper filed in a supplemental examination proceeding until after the proceeding is concluded by the electronic issuance of the supplemental examination certificate as set forth in § 1.625.

(c) If an unauthorized or otherwise improper paper is filed in a supplemental examination proceeding, it will not be entered into the official file or considered, or if inadvertently entered, it will be expunged.

(d) The patent owner must, as soon as possible upon the discovery of any other prior or concurrent post-patent Office proceeding involving the patent for which the current supplemental examination is requested, file a paper limited to notifying the Office of the post-patent Office proceeding, if such notice has not been previously provided with the request. The notice shall be limited to an identification of the post-patent Office proceeding, including the type of proceeding, the identifying number of any such proceeding (e.g., a control number or reissue application number), and the filing date of any such proceeding, without any discussion of the issues of the current supplemental examination proceeding or of the identified post-patent Office proceeding(s).

(e) Interviews are prohibited in a supplemental examination proceeding.

(f) No amendment may be filed in a supplemental examination proceeding.

(g) If the Office becomes aware, during the course of supplemental examination or of any reexamination ordered under 35 U.S.C. 257 as a result of the supplemental examination proceeding, that a material fraud on the Office may have been committed in

connection with the patent requested to be examined, the supplemental examination proceeding or any reexamination proceeding ordered under 35 U.S.C. 257 will continue, and the matter will be referred to the U.S. Attorney General in accordance with 35 U.S.C. 257(e).

§ 1.625 Conclusion of supplemental examination; publication of supplemental examination certificate; procedure after conclusion.

(a) A supplemental examination proceeding will conclude with the electronic issuance of a supplemental examination certificate. The supplemental examination certificate will indicate the result of the determination whether any of the items of information presented in the request raised a substantial new question of patentability.

(b) If the supplemental examination certificate states that a substantial new question of patentability is raised by one or more items of information in the request, *ex parte* reexamination of the patent will be ordered under 35 U.S.C. 257. Upon the conclusion of the *ex parte* reexamination proceeding, an *ex parte* reexamination certificate, which will include a statement specifying that *ex parte* reexamination was ordered under 35 U.S.C. 257, will be published. The electronically issued supplemental examination certificate will remain as part of the public record of the patent.

(c) If the supplemental examination certificate indicates that no substantial new question of patentability is raised by any of the items of information in the request, and *ex parte* reexamination is not ordered under 35 U.S.C. 257, the electronically issued supplemental examination certificate will be published in due course. The fee for reexamination ordered as a result of supplemental examination, as set forth in § 1.20(k)(2), will be refunded in accordance with § 1.26(c).

(d) Any *ex parte* reexamination ordered under 35 U.S.C. 257 will be conducted in accordance with §§ 1.530 through 1.570, which govern *ex parte* reexamination, except that:

(1) The patent owner will not have the right to file a statement pursuant