III. Pipeline Certificate Matters

CP-1.

Docket No. CP87-309-000, Paiute Pipeline Company and Southwest Gas Corporation. Order on certificate and abandonment authority to implement a reorganization of gas pipeline facilities and services.

CP-2.

Docket No. CP87-17-000, United Gas Pipe Line Company.

Docket No. CP88-124-000, Mississippi River Transmission Corporation. Order on extension of certificate authority for a gas sales service and abandonment of gas purchases.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-10358 Filed 5-5-88; 4:02 pm]

BILLING CODE 6717-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Friday, May 13, 1988.

PLACE: Marriner S. Eccies Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: May 5, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-10357 Filed 5-5-88; 3:52 pm]

BILLING CODE 6210-01-M

federal register

Monday
May 9, 1988

Part II

Department of Labor

Benefits Review Board

20 CFR Part 802

Organization of the Benefits Review Board and Rules of Practice and Procedure; Final Rule

DEPARTMENT OF LABOR

Benefits Review Board

20 CFR Part 802

Organization of the Benefits Review Board and Rules of Practice and Procedure

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The Department of Labor amends three sections of the Rules of Practice and Procedure of the Benefits Review Board as set forth in Part 802 of Title 20. The amendments establish procedures for eliminating certain procedural issues that have arisen in responding to requests for a stay of payments filed under section 21(b)(3) of the Longshore and Harbor Workers' Compensation Act, and resolve jurisdictional problems that arise when a party to a claim pending on appeal to the Board desires to seek modification of the underlying decision. Further, these regulations establish a procedure for disqualifying persons from participation in a representative capacity in appeals filed with the Board.

These amendments, more fully discussed below, establish procedures for resolving issues that have been raised in appeals filed with the Board during the past several years. These issues have been resolved on a case-by-case approach. The Department believes, however, that the establishment of these new procedures should result in fewer appeals to the courts of appeals based on the lack of regulatory guidelines.

EFFECTIVE DATE: These final regulations shall become effective June 8, 1988.

FOR FURTHER INFORMATION CONTACT: Robert S. Habermann, Chief Counsel, Suite 757, 1111 20th Street NW., Washington, DC 20036, (202) 653-5060.

SUPPLEMENTARY INFORMATION:

Background

This rule was originally published for public comment as a proposed rule in the **Federal Register** on July 20, 1987 in 52 FR 27300. Comments were to be submitted until August 20, 1987. No comments were received. Inasmuch as no comments have been received, the proposed rule is adopted as the final rule. No changes have been made.

Specifically, the changes in Part 802 are as follows:

1. New subsection 802.105(b) addresses the apparent conflict between section 14(f) of the Longshore Act, which requires an employer to pay compensation within 10 days of an award unless a stay of payment has been ordered by the Benefits Review Board, and the 10-day response time within which other parties may respond to motions filed with the Board, including a motion for a stay of payment, provided by § 802.219(e) of this chapter. Under current regulations employers must choose between making the payment within 10 days or not making the payment and incurring section 14(f) penalties. Pursuant to new § 802.105(b), the Board will have the discretion to issue, within the 10-day period set forth in section 14(f), a temporary stay not to exceed 30 days. This allows the claimant or other parties to file a response to the request for a stay before the Board issues a final order. Upon receipt of the response(s) or the expiration of the 10-day response period, an order granting or denying the stay of payment will be issued. If no order is issued within the 30-day temporary stay period, the stay will lapse.

No amendment to § 802.105(a) is being proposed at this time. Note that the Benefits Review Board has held that certain criteria required by § 802.105(a) do not have to be stated in their stay orders. *Rivere* v. *Raymond Fabricator Inc.*, 18 BRBS 6 (1985). The correctness of this ruling is being challenged and should be resolved by the courts.

2. New paragraph 802.202(d) sets forth the qualifications for attorneys and lay representatives; subsection (d)(2) further requires that a lay representative file an application for permission to appear before the Board in each case, stating the person's qualifications to appear. These new provisions are intended to ensure that parties are ably represented on appeal to the Board by their lay representatives. New paragraph (e) establishes a procedure for denial of authority to appear before the Board for both attorneys and lay representatives and sets forth the circumstances which may result in such denial of authority to appear. This section addresses questions of the competence or misconduct of attorneys or lay representatives which are not covered by 33 U.S.C. 931(b)(2)(C).

3. A new paragraph (c) is added to § 802.301 to state what effect the filing of a request for modification (see Longshore Act section 22) will have on appeals pending before the Board for review. Under this subsection, the Board will dismiss the appeal without prejudice, subject to being reinstated should the request for modification be denied. If the request is granted, any party adversely affected by the decision or order may file a new appeal with the Board within the 30-day period set forth in section 21(a) of the Longshore Act.

Classification—Executive Order 12291

The Department has determined that this rule is not a major rule under Executive Order 12291, because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or on ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. No regulatory impact analysis is therefore required.

Regulatory Flexibility Act

The Department believes that these rules will have no "significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act. Pub. L. 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)). The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. This conclusion is reached because the amendments will only establish procedures to be followed in resolving issues arising under the Longshore Act and they do not, other than the provisions relating to representation (§ 802.202), in themselves, impose any additional requirements upon small entities. The amendments to § 802.202 will permit the Board to determine the qualifications of those persons who should participate in the appellate process. Accordingly, no regulatory impact analysis is required.

Paperwork Reduction Act

This rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it does not contain a collection of information requirement.

List of Subjects in 20 CFR Part 802

Workers' compensation, Administrative practice and procedure.

Accordingly, 20 CFR Part 802 is amended as set forth below.

PART 802—[AMENDED]

1. The authority citation for Part 802 continues to read as follows:

Authority: 5 U.S.C. 301, Reorganization Plan No. 6 of 1950, 15 FR 3174, 33 U.S.C. 901 et seq., 30 U.S.C. 901 et seq.

2. By adding paragraph (b) to § 802.105 to read as follows:

§ 802.105 Stay of payment pending appeal.

* * * * *

(b) When circumstances require, the Board, in its discretion, may issue a temporary order not to exceed 30 days granting a motion for stay of payment prior to the expiration of the ten-day period allowed for filing responses to motions pursuant to § 802.219(e). Following receipt of a response to the motion or expiration of the response time provided in § 802.219(e), the Board will issue a subsequent order ruling on the motion for stay of payment.

3. By revising the section heading and adding paragraphs (d) and (e) to § 802.202 to read as follows:

§ 802.202 Appearances by attorneys and other authorized persons; denial or authority to appear.

* * * * *

(d) *Qualifications*—(1) *Attorneys.* An attorney at law who is admitted to practice before the Federal courts or before the highest court of any State, the District of Columbia, or any territory or commonwealth of the United States, may practice before the Board unless he or she has been disqualified from representing claimants under the Act pursuant to 33 U.S.C. 931(b)(2)(C), or unless authority to appear has been denied pursuant to § 802.202(e)(1) and (3). An attorney's own representation that he or she is in good standing before any of such courts shall be sufficient proof thereof, unless otherwise ordered by the Board.

(2) *Persons not attorneys.* Any person who is not an attorney at law may be admitted to appear in a representative capacity unless he or she has been disqualified from representing claimants under the Act pursuant to 33 U.S.C. 931(b)(2)(C). An application by a person not an attorney at law for admission to appear in a proceeding shall be submitted in writing to the Board at the time such person's appearance is entered. The application shall state such person's name, address, telephone number, general education, any special training or experience in claims representation, and such person's relationship, if any, to the party being represented. The Board may, at any time, make further inquiry as to the qualification or ability of such person to render assistance. In the event of a failure to make application for admission to appear, the Board shall issue an order to show cause why admission to appear should not be denied. Admission to appear in a particular case shall not be deemed a blanket authorization to appear in other cases.

(e) *Denial of authority to appear.*—(1) *Attorneys.* The Board may deny the privilege of appearing to any attorney, within applicable statutory constraints, e.g., 5 U.S.C. 555, who has been disbarred or suspended from the practice of law; who has surrendered his or her license while under investigation or under threat of disciplinary action; or who, after notice of an opportunity for hearing in the matter is found by the Board to have engaged in any conduct which would result in the loss of his or her license. No provision hereof shall apply to any attorney who appears on his or her own behalf.

(2) *Persons not attorneys.* The Board may deny the privilege of appearing to any person who, in the Board's judgment, lacks sufficient qualification or ability to render assistance. No provision hereof shall apply to any person who appears on his or her own behalf.

(3) Denial of authority to appear may be considered, after notice of and opportunity for a hearing, by the panel (constituted pursuant to § 801.301) which is assigned to decide the appeal in which the attorney or other person has entered an appearance. If such proceeding reveals facts suggesting that one of the circumstances described in 33 U.S.C. 931(b)(2)(C) exists, the Board shall refer that information to the Director, OWCP, for further proceedings pursuant to 33 U.S.C. 931(b)(2)(C) and 907(j). An attorney or other person may appeal a panel's decision to deny authority to appear to the entire permanent Board sitting en banc.

4. By adding paragraph (c) to § 802.301 to read as follows:

§ 802.301 Scope of review.

* * * * *

(c) Any party who considers new evidence necessary to the adjudication of the claim may apply for modification pursuant to section 22 of the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. 922. A party who files a petition for modification shall promptly notify the Board of such filing. Upon receipt of such notification, the Board shall dismiss the case without prejudice. Should the petition for modification be declined, the petitioner may file a request for reinstatement of his or her appeal with the Board within 30 days of the date the petition is declined. Should the petition for modification be accepted, any party adversely affected by the decision or order granting or denying modification may file a new appeal with the Board within 30 days of the date the decision or order on modification is filed.

Signed at Washington, DC, this 2nd day of May, 1988.

Ann McLaughlin,

Secretary of Labor.

[FR Doc. 88-10138 Filed 5-6-88; 8:45 am]

BILLING CODE 4510-23-M

federal register

Monday
May 9, 1988

Part III

Department of Commerce

Patent and Trademark Office

37 CFR Part 1

Miscellaneous Charges in Patent Practice; Notice of Proposed Rulemaking

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 80108-8008]

Miscellaneous Changes in Patent Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Patent and Trademark Office proposes to amend its regulations to: (1) Correct certain rules to conform to previous changes in other rules, (2) require all correspondence directed to the Patent and Trademark Office concerning a patent application to include the serial number after the Office has assigned and informed the applicant of the serial number of the application, (3) provide for the indication of copyright and mask work protection in patent applications, (4) require that any necessary corrections to drawings be made only by submission of new or replacement drawings, (5) provide in limited situations for the use of color drawings in utility patent applications, (6) prohibit the use of broken lines in design patent application drawings to show hidden planes and surfaces, and (7) provide for a refund of a portion of the preliminary examination fee where the Demand is withdrawn. The change pertaining to the drawings would remove any need for patent applicants or their representatives to borrow drawings filed in patent applications from the Office after the effective date of the rule change for purposes of making corrections.

DATES: Comments must be submitted on or before July 21, 1988; a public hearing will be held on July 21, 1988 at 9:00 a.m. Requests to present oral testimony should be received on or before July 14, 1988.

ADDRESSES: Address written comments and requests to present oral testimony to the Commissioner of Patents and Trademarks, Washington, DC 20231, Attention: Louis O. Maassel. The hearing will be held in Room 912, on the 9th floor of Crystal Park Building 2, located at 2121 Crystal Drive, Arlington, Virginia. Written comments and a transcript of the public hearing will be available for public inspection in Room 11A13 of Crystal Plaza Building 3, located at 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Louis O. Maassel by telephone at (703) 557-3070 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION:

Discussion of Specific Rules

Section 1.4, if amended as proposed, would correct the listing of rules in paragraph (a)(2).

Section 1.5, if amended as proposed, would provide that all correspondence related to a U.S. national patent application already filed with the Patent and Trademark Office must include the identification of the serial number assigned to that application by the Patent and Trademark Office. Any correspondence not containing such identification will be returned to the sender where a return address is available. Given there are over 30,000 documents to be routed each day, this requirement will greatly facilitate the matching of correspondence received with the relevant patent application file. Without serial number identification, documents are either significantly delayed or never matched with the relevant application file. The proposed amendments to paragraph (b) draw attention to the different requirements for identification in correspondence relating to the payment of maintenance fees.

Section 1.53(c) and (d), if amended as proposed, would require that a copy of the "Notice of Incomplete Application" or "Notice to File Missing Part" form sent to the applicant by the Office should accompany any response submitted to the Office in order for the response to be accepted. This will prevent the inadvertent assignment of a new serial number to correspondence sent in response to such notices or the misrouting of the correspondence.

Section 1.56(e), if amended as proposed, would correct the reference to the "Board of Appeals" to read "Board of Patent Appeals and Interferences".

Section 1.71, if amended as proposed, would contain new paragraphs (d) and (e) relating to the inclusion of copyright and mask work notices in patent applications. The provisions proposed are similar to those set forth in the Official Gazette notice dated March 20, 1987 titled "Inclusion of Copyright or Mask Work Notice in Patents" appearing on April 21, 1987 at 1077 O.G. 22. Under current intellectual property laws, it is possible to obtain copyright protection or mask work protection as well as patent protection for certain designs and technologies. On occasion, an author or inventor considers it desirable to include a notice of copyright or mask work in a design or utility patent which discloses material on which copyright or mask work protection has previously been established.

The inclusion of a copyright or mask work notice in a patent that discloses material on which copyright or mask work protection has previously been established, would serve to publicize and thereby protect the various intellectual property rights of the author or inventor. Further, this publication would tend to protect the public by militating against an unintentional encroachment into the rights. The presence of an unrestricted copyright or mask work notice in a patent could have an inhibiting effect on public dissemination of the patent disclosure to the extent it discourages the facsimile reproduction of the patent. The possible effect would be contrary to the mission of the Patent and Trademark Office to disseminate knowledge and information publicly by way of patent issuance, publication, and distribution. To avoid this effect, it is considered necessary to include an appropriate authorization by the author or inventor for copying of the patent itself with any copyright or mask work notice appearing in the patent. Inclusion of a copyright or mask work notice after a Notice of Allowance has been mailed will be permitted only if the criteria of 37 CFR 1.312 have been fulfilled. If the authorization required by proposed § 1.71(e) is not included, the notice will be objected to as improper by the examiner. If the examiner maintains the objection upon reconsideration, further review must be by way of a petition filed in accordance with 37 CFR 1.181.

Section 1.81, if amended as proposed, would clarify that high quality copies of drawings should be submitted in patent applications. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for future correction, if necessary.

Section 1.84(a), if amended as proposed, would be reworded to recommend that two-ply or three-ply bristol board be used by applicants to prepare drawings so that erasure and correction by India ink is possible. Proposed amended paragraph (a) would also indicate that photolithographs are not accepted as drawings and add a reference to § 1.84(p) relating to color drawings in utility patent applications.

High quality copies of drawings should be supplied to the Patent and Trademark Office when filing a patent application. Whether or not bristol board is used for drawings is applicant's

choice. However, the drawings that are submitted to the Office must be on strong, white, smooth, and non-shiny paper and meet the standards according to § 1.84. If corrections to the drawings are necessary, they should be made to the original drawings and high-quality copies of the corrected original drawings then submitted to the Office.

Only one copy is required or desired. The Office had attempted to encourage the submission of three copies, but compliance was very low. It was determined that it is more efficient for the Office to rely on consistency and only one copy.

The Patent and Trademark Office will no longer release to applicants, bonded drafting companies or other drawings from patent applications filed after the effective date of these proposed rule changes. See proposed § 1.85(b). If corrections to the drawings are necessary, new corrected drawings must be prepared and filed in the Patent and Trademark Office. Therefore, the applicant, attorney or agent should retain the original drawing.

The Office will continue to allow applicants to borrow for correction drawings which have been filed prior to the effective date of these rule changes.

Section 1.84(b), if amended as proposed, would provide for applicants using drawing sheets which are 8½ by 13 inches in size.

Section 1.84(i), if amended as proposed, would make grammatical corrections in the text of the rules and clarify Office drawing requirements as to exploded views, enlarged views and views which require several sheets.

Section 1.84(j), if amended as proposed, would clarify how views should be arranged when they are placed sideways on the drawing sheet.

Section 1.84(l) if amended as proposed, would indicate that drawings may be identified by lightly writing identifying information on the drawings in the top margin. For identification by serial number, the Office prefers that the information be placed on the front of the drawing. When the applicant forwards drawings separate from the original application papers, a cover letter identifying the application by serial number must accompany the drawings. The application serial number must also be placed on drawings filed after the serial number has been indicated in correspondence to the applicant, in accordance with §1.84(l)

Section 1.84(n), if added as proposed, would permit numbering of the drawing sheets. However, such numbering would not appear on the drawings of the printed patent.

Section 1.84(o), if added as proposed, would provide for the indication of copyright or mask work protection notice on patent application drawings. This procedure is the same as that established by the Official Gazette notice dated March 20, 1987 published on April 21, 1987 at 1077 O.G. 22.

Section 1.84(p), if added as proposed, would provide in the rules for the filing of color drawings in a very limited number of utility patent applications. An Official Gazette notice relating to this topic dated August 6, 1986, titled "Use of Color Drawings in Utility Patents" was published on September 9, 1986 at 1070 O.G. 10. In light of the substantial administrative and economic burden associated with printing a utility patent with color drawings, the letters patent and the patent copies which are printed at the issuance of the patent will be only in black and white. However, copies of the patent with the color drawings may be purchased separately from the Patent and Trademark Office upon special request and payment of the fee.

It is anticipated that color drawings will only be permitted when color drawings are the only practical method in a utility patent application in which to disclose the subject matter sought to be patented. In order to avoid issues of lack of description or enablement under 35 U.S.C. 112 or new matter under 35 U.S.C 132, applicants are advised to file the desired color drawings as part of the original application papers. The petition should be directed to the attention of the Deputy Assistant Commissioner for Patents.

Section 1.85, if amended as proposed, would indicate that drawings not complying with § 1.84 will be accepted in some instances for purposes of examination and that drawings which do comply with all the rules relating to drawings be required later, and that no corrections are permitted to drawings filed in the Patent and Trademark Office after the effective date of the rule change.

When corrected drawings are required to be submitted at the time of allowance, the applicant is required to submit *acceptable* drawings within three months from the mailing of the "Notice of Allowance". Within the three-month period, two weeks should be allowed for review of the drawings by the Drafting Branch. If the Office finds that correction is necessary, the applicant must submit a new corrected drawing to the Office within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, the applicant should file corrected drawings as soon as possible following the receipt of the Notice of Allowance.

Section 1.152, if amended as proposed, would permit broken lines on drawings to show visible environmental structure but not hidden planes and surfaces in design patent application drawings.

Section 1.378, if amended as proposed, would amend the rules to conform with section 404 of Public Law 98–622 which states:

(a) Notwithstanding section 41(c) of title 35, United States Code, as in effect before the enactment of Public Law 97–247 (96 Stat. 317), the Commissioner of Patents and Trademarks may accept after the six-month grace period referred to in such section 41(c), the payment of any maintenance fee due on any patent based on an application filed in the Patent and Trademark Office on or after December 12, 1980, and before August 27, 1982, to the same extent as in the case of patents based on applications filed in the Patent and Trademark Office on or after August 27, 1982.

The proposed rule wording would include reference to maintenance fees due on Patents based on applications filed in the patent and Trademark Office on or after December 12, 1980 and before August 27, 1982.

Section 1.421(f), if amended as proposed, would delete reference to a canceled PCT Rule and add reference to the current PCT Rule provision.

Section 1.480(d) if amended as proposed, would provide for a refund of a portion of the international preliminary examination fee where the applicant withdraws the demand before the examiner has begun the international preliminary examination. An amount equal to the transmittal fee would be retained by the Patent and Trademark Office to cover the cost of the clerical work involved.

Environmental, Energy, and Other Considerations

The proposed rule change will not have a significant impact on the quality of the human environment or conservation of energy resources.

The proposed rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Order 12291, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce certified to the Small Business Administration that the proposed rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354) because the proposed rule change corrects some rules so that they correspond to earlier changes, relate to

identification of applications on correspondence, allow greater flexibility in patent drawing content and handling, and provide for a refund where a proper demand for international preliminary examination has been filed but withdrawn later.

The Patent and Trademark Office has determined that this proposed rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Patent and Trademark Office has also determined that this notice has no federalism implications affecting the relationship between the national government and the States as outlined in Executive Order 12612.

The rule change involves correction of information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and are cleared under OMB Control No. 0651–0011.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (government agencies), Courts, Inventions and patents, Lawyers.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 41, and Patent and Trademark Office is proposing to amend Title 37 of the Code of Federal Regulations as set forth below.

It is proposed to amend 37 CFR, Part 1, as follows with deletions of portions of the rules indicated by brackets ([ ]) and additions by arrows (► ◄).

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 would continue to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.4 is proposed to be amended by revising paragraph (a)(2) to read as follows:

§ 1.4 Nature of correspondence.

(a) * * *

(2) Correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in Subpart B, §§ 1.31 to [1.352] ►1.378◄; of international applications in Subpart C, §§ 1.401 to [1.482] ►1.499◄; of reexamination of patents in Subpart D, §§ 1.501 to 1.570; of interferences in Subpart E, §§ 1.601 to [1.688] ►1.690; of extension of patent term in Subpart F, §§ 1.710 to 1.785◄; and of trademark applications §§ 2.11 to 2.189.

* * * * *

3. Section 1.5 is proposed to be amended by revising paragraphs (a) and (b) to read as follows:

§ 1.5 Identification of application, patent or registration.

(a) When a letter ►directed to the Patent and Trademark Office◄ concerns [an] ►a previously filed◄ application for patent, it ►must identify on the top page in a conspicuous location, the serial number, including the series code, which was assigned to that application and indicated in correspondence to the applicant by the Patent and Trademark Office or the international application number of the application. Any correspondence not containing such identification will be returned to the sender where a return address is available. In addition, all letters directed to the Patent and Trademark Office concerning applications for patent◄ should ►also◄ state ►"PATENT APPLICATION",◄ the name of the applicant, the title of the invention, [the serial number or international application number of the application,] the date of filing the same, and if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.

(b) When the letter concerns a patent ►other than for purposes of paying a maintenance fee◄, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention. ►For letters concerning payment of a maintenance fee in a patent, see the requirements of § 1.366(c).◄

* * * * *

4. Section 1.53 is proposed to be amended by revising paragraphs (c) and (d) to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

* * * * *

(c) If any application is filed without the specification or drawing required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification or drawing in order to obtain a filing date as of the date of filing of such submission. ►A copy of the "Notice of Incomplete Application" form notifying the applicant should accompany any response thereto submitted to the Office.◄ If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less a $15.00 handling fee.

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified, if a correspondence address has been provided and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. ►A copy of the "Notice to File Missing Parts" form mailed to applicant should accompany any response thereto submitted to the Office.◄ If the required filing fee is not timely paid, or if the processing and retention fee set forth in § 1.21(l) is not paid within one year of the date of mailing of the notification required by this paragraph, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which neither the required basic filing fee nor the processing and retention fee has been paid. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. If no correspondence address is included in the application, applicant has two months from the filing date to file the ►basic filing◄ fee, oath or declaration and to pay the surcharge as set forth § 1.16(e) in order to prevent abandonment of the application or►, if no basic filing fee has been paid,◄ one year from the filing date to pay the processing and retention fee set forth in § 1.21(l) to prevent disposal of the application.

5. Section 1.56 is proposed to be amended by revising paragraph (c) to read as follows:

§ 1.56 Duty of disclosure; fraud; striking o rejection of applications.

* * * * *

(e) The examination of an application for compliance with paragraph (d) of this section will normally be delayed until such time as (1) all other matters are resolved, or (2) appellant's reply brief pursuant to § 1.193(b) has been received and the application is otherwise prepared for consideration by the Board of ►Patent◄ Appeals ►and Interferences◄, at which time the appeal will be suspended for examination pursuant to paragraph (d) of this section. The prosecution of the application will be reopened to the extent necessary to conduct the examination pursuant to paragraph (d) of this section including any appeal pursuant to § 1.191. If an appeal has already been filed based on a rejection on other grounds, any further rejection under this section shall be treated in accordance with § 1.193(c).

* * * * *

6. Section 1.71 is proposed to be amended by adding new paragraphs (d) and (e) to read as follows:

§ 1.71 Detailed description and specification of the invention.

* * * * *

►(d) A copyright or mask work notice may be placed in a design or utility patent application adjacent to copyright and mask work material contained therein. The notice may appear at any appropriate portion of the patent application disclosure. For notices in drawings, see § 1.84(o). The content of the notice must be limited to only those elements required by law. For example, "©1983 John Doe" (17 U.S.C. 401) and "*M* John Doe" (17 U.S.C. 909) would be properly limited and, under current statutes, legally sufficient notices of copyright and mask work, respectively. Inclusion of a copyright or mask work notice will be permitted only if the authorization language set forth in paragraph (e) of this section is included at the beginning (preferably as the first paragraph) of the specification.

(e) The authorization shall read as follows:

A portion of the disclosure of this patent document contains material which is subject to [copyright or mask work] protection. The [copyright or mask work] owner has no objection to the facsimile reproduction by anyone of the patent document or the patent disclosure, as it appears in the Patent and Trademark Office patent file or records, but otherwise reserves all [copyright or mask work] rights whatsoever.◄

7. Section 1.81 is proposed to be amended by revising the title and paragraph (a) to read as follows:

§ 1.81 Drawings required δin patent applicationγ.

(a) The applicant for a patent is required to furnish a drawing of his ►or her◄ invention where necessary for the understanding of the subject matter sought to be patented; this drawing ►, or a high quality copy thereof,◄ must be filed with the application. ►Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.◄

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8. Section 1.84 is proposed to be amended by revising paragraphs (a), (b) introductory text, (i), (j) and (l) redesignating and revising (b)(2) as (b)(3), and by adding new paragraphs (b)(2) (n), (o), and (p), to read as follows:

§ 1.84 Standards for drawings.

(a) *Paper and ink.* Drawings ►or high quality copies thereof which are submitted to the Office◄ must be made upon paper which is flexible, strong, white, smooth, non-shiny and durable. [Two-ply or three-ply bristol board is preferred. The surface of the paper should be calendered and of a quality which will permit erasure and correction with India ink.] ►It is recommended that two-ply or three-ply bristol board or paper of sufficient quality to permit erasure and correction with India ink be used for original drawings to facilitate any future corrections by the applicant.◄ India ink, or its equivalent in quality, is preferred for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not normally acceptable. ►Photolithographs are not acceptable. See paragraph (p) of this section for use of color drawings in utility patent applications.◄

(b) *Size of sheet and margins.* The size of the sheets on which drawings are made may [either] be exactly 8½ by 14 inches (21.6 by 35.6 cm.) ►, exactly 8½ by 13 inches (21.6 by 33.1 cm.),◄ or exactly 21.0 by 29.7 cm. (DIN size A4). All drawing sheets in a particular application must be the same size. One of the shorter sides of the sheet is regarded as its top.

* * * * *

►(2) On 8½ by 13 inch drawing sheets, the drawing must include a top margin of 1 inch (2.5 cm.) and bottom and side margins of ¼ inch (6.4 mm.) from the edges, thereby leaving a "sight" precisely 8 by 11¾ inches (20.3 by 29.8 cm.). Margin border lines are not permitted. All work must be included within the "sight". The sheets may be provided with two ¼ inch (6.4 mm.) diameter holes having their centerlines spaced 1 1/16 inch (17.5 mm.) below the top edge and 2¾ inches (7.0 cm.) apart, said holes being equally spaced from the respective side edges.◄

[(2)] ►(3)◄ On 21.0 by 29.7 cm. drawing sheets, the drawing must include a top margin of at least 2.5 cm., a left side margin of 2.5 cm., a right side margin of 1.5 cm., and a bottom margin of 1.0 cm. Margin border lines are not permitted. All work must be contained within a sight size not to exceed 17 by 26.2 cm.

* * * * *

(i) *Views.* The drawing must contain as many figures as may be necessary to show the invention; the figures should be consecutively numbered if possible in the order in which they appear. The figures may be ►plan◄ [plain], elevation, section, or ►perspective◄ [prespective] views, and detail views of portions or elements, on a larger scale if necessary, may also be used. Exploded views, with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. ►When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets.◄ When necessary, a view of a large machine or device in its entirety may be broken and extended over several sheets if there is no loss in facility of understanding the view. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets should be so arranged that the complete figure can be understood by laying the drawing sheets adjacent to one another. ►The figures, even though on separate sheets, should be labeled as separate figures, for example as Fig. 1a, Fig. 1b, etc., so that it would be apparent that the views actually comprise one figure.◄ The arrangement should be such that no part of any of the figures appearing on the various sheets [are] ►is◄ concealed and that the complete figure can be understood even though spaces will occur in the complete figure because of the margins on the drawing sheets. The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose.

Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should centerlines be used. ►When a portion of a figure is enlarged for magnification purposes, the figure and the enlarged figure must each be labeled as a separate figure.◄

(j) *Arrangement of views.* All views on the same sheet should stand in the same direction and, if possible, stand so that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side so that the top of the sheet with the appropriate top margin ►to be used as the heading space◄ is on the right-hand side. One figure must not be placed upon another or within the outline of another.

* * * * *

(l) [*Extraneous matter.*] ►*Identification of drawings.*◄ Identifying indicia (such as the ►serial number, group art unit, title of the invention,◄ attorney's docket number, inventor's name, number of sheets, etc.) not to exceed 2¾ inches (7.0 cm.) in width may be placed in a centered location between the side edges within three-fourths inch (19.1 mm.) of the top edge. ►Either this marking technique on the front of the drawing or the placement, although not preferred, of this information and the title of the invention on the back of the drawings is acceptable.◄ Authorized security markings may be placed on the drawings provided they [be] ►are◄ outside the illustrations and are removed when the material is declassified. Other extraneous matter will not be permitted upon the face of a drawing.

* * * * *

►(n) *Numbering of drawing sheets.* The drawing sheets may be numbered in consecutive arabic numbers at the top of the sheets, in the middle, but not in the margin. Such numbering will be deleted for printing purposes since page numbers are added at the time of printing the patent by the Office.◄

►(o) *Copyright or Mask Work Notice.* A copyright or mask work notice may appear in the drawing but must be placed within the "sight" of the drawing immediately below the figure representing the copyright or mask work material and be limited to letters having a print size of ⅛ to ¼ inches high. The content of the notice must be limited to only those elements required by law. For example, "©1983 John Doe" (17 U.S.C. 401) and "*M* John Doe" (17 U.S.C. 909) would be properly limited and, under current statutes, legally sufficient notices of copyright and mask work, respectively. Inclusion of a copyright or mask work notice will be permitted only if the authorization language set forth in § 1.71(e) is included at the beginning (preferably as the first paragraph) of the specification.◄

►(p) *Limited use of color drawings in utility patent applications.* Paragraph (a) of this section requires that drawings in utility patent applications must be in black on white paper. However, on rare occasion, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility patent application. The Patent and Trademark Office will accept color drawings in utility patent applications only after granting of a petition by the applicant under § 1.183 of this part which requests waiver of the requirements of paragraph (a) of this section. Any such petition should be directed to the Office of the Deputy Assistant Commissioner for Patents and must include the following:

(1) The appropriate fee set forth in § 1.17(h).

(2) Five (5) sets of color drawings on DIN size A4 (21.0 by 29.7 cm.) sheets.

(3) A proposed amendment to insert in the specification the following language as the first paragraph in the portion of the specification relating to the brief description of the drawing:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."◄

9. Section 1.85 is proposed to be revised to read as follows:

§ 1.85 [Informal] ►Corrections to◄ drawings.

►(a)◄The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto, if suitable for reproduction, may be admitted ►for examination◄ but in such case [the drawing must be corrected or] a new [one] ►drawing must be◄ furnished [, as required].

►(b) The Patent and Trademark Office will not release drawings for purposes of correction. If corrections are necessary, new corrected drawings must be submitted within the time set by the Office.◄

►(c) When corrected drawings are required to be submitted at the time of allowance, the applicant is required to submit *acceptable* drawings within three months from the mailing of the "Notice of Allowance". Within that three-month period, two weeks should be allowed for review of the drawings by the Drafting Branch. If the Office finds that correction is necessary, the applicant must submit a new corrected drawing to the Office within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, the applicant should file corrected drawings as soon as possible following the receipt of the Notice of Allowance.◄

10. Section 1.152 is proposed to be revised to read as follows:

§ 1.152 Drawing.

The design must be represented by a drawing made in conformity with the rules laid down for drawings of mechanical inventions and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article. Appropriate surface shading must be used to show the character or contour of the surfaces represented. ►Broken lines may be used to show visible environmental structure, but may not be used to show hidden planes and surfaces which cannot be seen through opaque materials.◄

11. Section 1.378 is proposed to be amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

* * * * *

(b) * * *

(1) The required maintenance fee set forth in § 1.20[(h)] ►(e)◄—(j),

* * * * *

(c) * * *

(1) The required maintenance fee set forth in § 1.20[(h)] ►(e)◄—(j),

* * * * *

12. Section 1.421 is proposed to be amended by revising paragraph (f) and adding a new paragraph (g) to read as follows:

§ 1.421 Applicant for international application.

* * * * *

(f) Changes in the person, name, or address of the applicant of an international application shall be made in accordance with PCT Rule [18.5] ►92bis◄.

(g) The wording of PCT Rule 92bis is as follows:

PCT Rule 92bis—Recording of Changes in Certain Indications in the Request or the Demand

92bis Recording of Changes by the International Bureau

(a) The International Bureau shall, on the request of the applicant or the receiving Office, record changes in the following indications appearing in the request or demand:

(i) person name, residence, nationality or address of the applicant,

(ii) person, name or address of the agent, the common representative or the inventor.

(b) The International Bureau shall not record the requested change if the request for recording is received by it after the expiration:

(i) of the time limit referred to in Article 22(1), where Article 39(1) is not applicable with respect to any Contracting State;

(ii) of the time limit referred to in Article 39(1)(a), where Article 39(1) is applicable with respect to at least one Contracting State.◄

13. Section 1.480 is proposed to be amended by revising paragraph (d) to read as follows:

§ 1.480 Demand for international preliminary examination.

* * * * *

(d) Withdrawal of a proper Demand ►prior to the start of the international preliminary examination◄ will [not] entitle applicant to a refund of the preliminary examination fee [or handling fee] ►minus the amount of the transmittal fee set forth in § 1.445(a)(1)◄.

Dated: March 9, 1988.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

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