

# Chapter 1000 Matters Decided by Various U.S. Patent and Trademark Office Officials

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- 1001 Statutory Authority of \* >Director of the USPTO< [R-2]**
- 35 U.S.C. 2. Powers and duties.*
- (a) IN GENERAL.— The United States Patent and Trademark Office, subject to the policy direction of the Secretary of Commerce—
- (1) shall be responsible for the granting and issuing of patents and the registration of trademarks; and
  - (2) shall be responsible for disseminating to the public information with respect to patents and trademarks.
- (b) SPECIFIC POWERS.— The Office—
- (1) shall adopt and use a seal of the Office, which shall be judicially noticed and with which letters patent, certificates of trademark registrations, and papers issued by the Office shall be authenticated;
  - (2) may establish regulations, not inconsistent with law, which—

the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), the Public Buildings Act (40 U.S.C. 601 et seq.), and the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11301 et seq.); and

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(B) may enter into and perform such purchases and contracts for printing services, including the process of composition, platemaking, presswork, silk screen processes, binding, microform, and the products of such processes, as it considers necessary to carry out the functions of the Office, without regard to sections 501 through 517 and 1101 through 1123 of title 44;<

(5) may use, with their consent, services, equipment, personnel, and facilities of other departments, agencies, and instrumentalities of the Federal Government, on a reimbursable basis, and cooperate with such other departments, agencies, and instrumentalities in the establishment and use of services, equipment, and facilities of the Office;

(6) may, when the Director determines that it is practicable, efficient, and cost-effective to do so, use, with the consent of the United States and the agency, instrumentality, Patent and Trademark Office, or international organization concerned, the services, records, facilities, or personnel of any State or local government agency or instrumentality or foreign patent and trademark office or international organization to perform functions on its behalf;

(7) may retain and use all of its revenues and receipts, including revenues from the sale, lease, or disposal of any real, personal, or mixed property, or any interest therein, of the Office;

(8) shall advise the President, through the Secretary of Commerce, on national and certain international intellectual property policy issues;

(9) shall advise Federal departments and agencies on matters of intellectual property policy in the United States and intellectual property protection in other countries;

(10) shall provide guidance, as appropriate, with respect to proposals by agencies to assist foreign governments and international intergovernmental organizations on matters of intellectual property protection;

(11) may conduct programs, studies, or exchanges of items or services regarding domestic and international intellectual property law and the effectiveness of intellectual property protection domestically and throughout the world;

(12)(A) shall advise the Secretary of Commerce on programs and studies relating to intellectual property policy that are conducted, or authorized to be conducted, cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

(B) may conduct programs and studies described in subparagraph (A); and

(13)(A) in coordination with the Department of State, may conduct programs and studies cooperatively with foreign intellectual property offices and international intergovernmental organizations; and

(B) with the concurrence of the Secretary of State, may authorize the transfer of not to exceed \$100,000 in any year to the Department of State for the purpose of making special payments to international intergovernmental organizations for studies

and programs for advancing international cooperation concerning patents, trademarks, and other matters.

(c) CLARIFICATION OF SPECIFIC POWERS.—

(1) The special payments under subsection (b)(13)(B) shall be in addition to any other payments or contributions to international organizations described in subsection (b)(13)(B) and shall not be subject to any limitations imposed by law on the amounts of such other payments or contributions by the United States Government.

(2) Nothing in subsection (b) shall derogate from the duties of the Secretary of State or from the duties of the United States Trade Representative as set forth in section 141 of the Trade Act of 1974 (19 U.S.C. 2171).

(3) Nothing in subsection (b) shall derogate from the duties and functions of the Register of Copyrights or otherwise alter current authorities relating to copyright matters.

(4) In exercising the Director's powers under paragraphs (3) and (4)(A) of subsection (b), the Director shall consult with the Administrator of General Services.

(5) In exercising the Director's powers and duties under this section, the Director shall consult with the Register of Copyrights on all copyright and related matters.

(d) CONSTRUCTION.— Nothing in this section shall be construed to nullify, void, cancel, or interrupt any pending request-for-proposal let or contract issued by the General Services Administration for the specific purpose of relocating or leasing space to the United States Patent and Trademark Office.

35 U.S.C. 3. *Officers and employees.*

(a) UNDER SECRETARY AND DIRECTOR.—

(1) IN GENERAL.— The powers and duties of the United States Patent and Trademark Office shall be vested in an Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (in this title referred to as the "Director"), who shall be a citizen of the United States and who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall be a person who has a professional background and experience in patent or trademark law.

(2) DUTIES.—

(A) IN GENERAL.— The Director shall be responsible for providing policy direction and management supervision for the Office and for the issuance of patents and the registration of trademarks. The Director shall perform these duties in a fair, impartial, and equitable manner.

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(B) CONSULTING WITH THE PUBLIC ADVISORY COMMITTEES.— The Director shall consult with the Patent Public Advisory Committee established in section 5 on a regular basis on matters relating to the patent operations of the Office, shall consult with the Trademark Public Advisory Committee established in section 5 on a regular basis on matters relating to the trademark operations of the Office, and shall consult with the respective Public Advisory Committee before submitting budgetary proposals to the Office of Management and Budget or changing or proposing to change patent or trademark user fees or patent or trademark regulations which are subject to the

requirement to provide notice and opportunity for public comment under section 553 of title 5, as the case may be.<

(3) OATH.— The Director shall, before taking office, take an oath to discharge faithfully the duties of the Office.

(4) REMOVAL.— The Director may be removed from office by the President. The President shall provide notification of any such removal to both Houses of Congress.

(b) OFFICERS AND EMPLOYEES OF THE OFFICE.—

(1) DEPUTY UNDER SECRETARY AND DEPUTY DIRECTOR.— The Secretary of Commerce, upon nomination by the Director, shall appoint a Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director of the United States Patent and Trademark Office who shall be vested with the authority to act in the capacity of the Director in the event of the absence or incapacity of the Director. The Deputy Director shall be a citizen of the United States who has a professional background and experience in patent or trademark law.

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(2) COMMISSIONERS.—

(A) APPOINTMENT AND DUTIES.— The Secretary of Commerce shall appoint a Commissioner for Patents and a Commissioner for Trademarks, without regard to chapter 33, 51, or 53 of title 5. The Commissioner for Patents shall be a citizen of the United States with demonstrated management ability and professional background and experience in patent law and serve for a term of 5 years. The Commissioner for Trademarks shall be a citizen of the United States with demonstrated management ability and professional background and experience in trademark law and serve for a term of 5 years. The Commissioner for Patents and the Commissioner for Trademarks shall serve as the chief operating officers for the operations of the Office relating to patents and trademarks, respectively, and shall be responsible for the management and direction of all aspects of the activities of the Office that affect the administration of patent and trademark operations, respectively. The Secretary may reappoint a Commissioner to subsequent terms of 5 years as long as the performance of the Commissioner as set forth in the performance agreement in subparagraph (B) is satisfactory.

(B) SALARY AND PERFORMANCE AGREEMENT.— The Commissioners shall be paid an annual rate of basic pay not to exceed the maximum rate of basic pay for the Senior Executive Service established under section 5382 of title 5, including any applicable locality-based comparability payment that may be authorized under section 5304(h)(2)(C) of title 5. The compensation of the Commissioners shall be considered, for purposes of section 207(c)(2)(A) of title 18, to be the equivalent of that described under clause (ii) of section 207(c)(2)(A) of title 18. In addition, the Commissioners may receive a bonus in an amount of up to, but not in excess of, 50 percent of the Commissioners' annual rate of basic pay, based upon an evaluation by the Secretary of Commerce, acting through the Director, of the Commissioners' performance as defined in an annual performance agreement between the Commissioners and the Secretary. The annual performance agreements shall incorporate measurable organization and individual goals in key operational areas as delineated in an annual performance plan agreed to by the Commissioners and the Secretary. Payment of a bonus under this sub-

paragraph may be made to the Commissioners only to the extent that such payment does not cause the Commissioners' total aggregate compensation in a calendar year to equal or exceed the amount of the salary of the Vice President under section 104 of title 3.

(C) REMOVAL.— The Commissioners may be removed from office by the Secretary for misconduct or nonsatisfactory performance under the performance agreement described in subparagraph (B), without regard to the provisions of title 5. The Secretary shall provide notification of any such removal to both Houses of Congress.<

(3) OTHER OFFICERS AND EMPLOYEES.— The Director shall—

(A) appoint such officers, employees (including attorneys), and agents of the Office as the Director considers necessary to carry out the functions of the Office; and

(B) define the title, authority, and duties of such officers and employees and delegate to them such of the powers vested in the Office as the Director may determine.

The Office shall not be subject to any administratively or statutorily imposed limitation on positions or personnel, and no positions or personnel of the Office shall be taken into account for purposes of applying any such limitation

(4) TRAINING OF EXAMINERS.— The Office shall submit to the Congress a proposal to provide an incentive program to retain as employees patent and trademark examiners of the primary examiner grade or higher who are eligible for retirement, for the sole purpose of training patent and trademark examiners.

(5) NATIONAL SECURITY POSITIONS.— The Director, in consultation with the Director of the Office of Personnel Management, shall maintain a program for identifying national security positions and providing for appropriate security clearances, in order to maintain the secrecy of certain inventions, as described in section 181, and to prevent disclosure of sensitive and strategic information in the interest of national security.

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**1001.01 Modes of Exercising Authority [R-2]**

The \* authority >of the Director of the USPTO< to review and supervise the work of the Office is exercised by the promulgation of the Rules of Practice; issuance of orders, notices and memoranda stating Office policies and modes for effectuating these policies; decisions on petitions by applicants; and by the designation of particular cases which must be submitted to the \*>Director of the USPTO< or other officials authorized by the \*>Director of the USPTO<. The present Chapter deals with the latter two items.

37 CFR 1.181(g) states, "The \*>Director< may delegate to appropriate Patent and Trademark Office officials the determination of petitions."

The various delegations to various Office officials are set forth in this Chapter.

The delegations set forth in this Chapter do not confer a right to have a matter decided by a specific Office official, rather, such delegations aid in the efficient treatment of petitions by the Office. A delegation of supervisory or higher level review authority over a matter carries with it the authority to decide the matter *ab initio*.

## 1002 Petitions to the \* >Director of the USPTO< [R-2]

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37 CFR 1.181. *Petition to the Director.*

(a) Petition may be taken to the Director:<

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;

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(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions in interferences, see § 1.644.<

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

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(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.

(e) Oral hearing will not be granted except when considered necessary by the Director.<

(f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which

relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.

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(g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.

37 CFR 1.182. *Questions not specifically provided for.*

All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each situation by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 1.183. *Suspension of rules.*

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).<

Petitions on appealable matters ordinarily are not entertained. See MPEP § 1201.

The mere filing of a petition will not stay the period for replying to an examiner's action which may be running against an application, nor act as a stay of other proceedings (37 CFR 1.181(f)). For example, if a petition to vacate a final rejection as premature is filed within 2 months from the date of the final rejection, the period for reply to the final rejection is not extended even if the petition is not reached for decision within that period. However, if the petition is granted and the applicant has filed an otherwise full reply to the rejection *within the period for reply*, the case is not abandoned.

37 CFR 1.181(f) provides that any petition under that rule which is not filed "within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely." Often, the "action or notice from which relief is requested," for example, a requirement for a new drawing, is included in the same letter as an action on the merits of the claims, the latter having a 3-month period for reply. Under such circumstances, if applicant requests reconsideration, under 37 CFR 1.111(b), of the requirement for a new drawing, the examiner's action on this request, if adverse, establishes the beginning of the 2-month period for filing the petition. The petition must be filed within this period even though the period for reply to the rejection of the claims may

extend beyond the 2-month period. The 2-month period for filing timely petitions set forth in 37 CFR 1.181(f) applies to any petition under 37 CFR part 1, except as otherwise provided. A number of sections (e.g., 37 CFR 1.377, 37 CFR 1.378, 37 CFR 1.644, and 37 CFR 1.740) specify the time period within which a petition must be filed (or may be dismissed as untimely). The 2-month time period in 37 CFR 1.181(f) applies to a petition under any section (e.g., 37 CFR 1.182 and 37 CFR 1.183) that does not specify the time period within which a petition must be filed. The 2-month period is not extendible under 37 CFR 1.136(a) since the time is within the discretion of the \* >Director of the USPTO<.

Form paragraph 10.20 may be used where an insufficient fee was filed with a petition or a request.

*¶ 10.20 Petition or Request Dismissed, Proper Fee Not Submitted*

Applicant's petition or request under 37 CFR [1] filed [2] is DISMISSED because the proper petition or processing fee of [3] required under 37 CFR 1.17 has not been submitted.

**Examiner Note:**

1. Requests under 37 CFR 1.48 for correcting inventorship require a fee as set forth in 37 CFR 1.17(i).
2. Petitions to suspend action under 37 CFR 1.103(a), and to withdraw an application from issue under 37 CFR 1.313, require a fee as set forth in 37 CFR 1.17(h).
3. Petitions for an extension of time under 37 CFR 1.136(a) require varying fees. See 37 CFR 1.17(a)(1)-(5).
4. Requests to suspend action under 37 CFR 1.103(b) or (c) require a fee set forth in 37 CFR 1.17(i).
5. Requests to defer examination under 37 CFR 1.103(d) require a fee set forth in 37 CFR 1.17(i) and publication fee set forth in 37 CFR 1.18(d).

**1002.01 Procedure**

Petitions, together with the respective application files, are sent to the official having the delegated authority to decide the petition. The petition may be referred to the examiner for a formal statement under 37 CFR 1.181(c) or for an informal memorandum. See MPEP § 711.03(d).

Where a formal statement under 37 CFR 1.181(c) is made, a copy thereof is mailed to the petitioner by the examiner unless the examiner is otherwise directed, and the application file and petition, accompanied by the original copy of his or her statement, are returned to the official handling the petition. If an informal memorandum is requested, no copy thereof is mailed to the petitioner by the examiner.

After the decision has been rendered, the decision is entered on the "Contents" of the application file wrapper which is then returned to the primary examiner, who will act in accordance with the decision.

**1002.02 Delegation of Authority To Decide Petitions [R-2]**

Petitions to the \* >Director of the USPTO< are decided in accordance with the following delegation of authority.

In any case in which the authority to decide the petition has been delegated as indicated in MPEP §§ 1002.02 (b), (f), (g), (j) and (o), a denial of a petition may be viewed as a final agency decision. A dismissal of a petition, a denial of a petition without prejudice, and other interlocutory orders are not final agency decisions.

In accordance with 37 CFR 1.181(g), the authority to decide petitions to the \* >Director of the USPTO< not otherwise delegated, has been delegated to various Office officials. Generally, these officials will decide petitions as specified in the following sections for the effective operation of the Office. Also listed are certain petitions which are not, strictly speaking, to the \* >Director of the USPTO< but have been committed by statute or rule to the designated officials.

The delegation of specific petitions and/or matters \* >to the Technology Center (TC) Directors are identified in the sections below. Unless specifically provided for in the letter of delegation of authority, further delegations are not permitted. Any petitions and/or matters so delegated by the TC Directors may be decided by the TC Directors.<

Authority not herein delegated has been reserved to the \* >Director of the USPTO< and may be delegated to appropriate officials on an ad hoc basis.

**1002.02(b) Petitions and Requests Decided by the Office of the Deputy Commissioner for Patent Examination Policy [R-2]**

All petitions decided by the Office of the Deputy Commissioner for Patent Examination Policy other than by the PCT Legal Administration (see MPEP § 1002.02(p)), and inquiries relating thereto, should be directed to " \* >Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia

22313-1450<,” except as otherwise provided. For example, applications for patent term extension under 35 U.S.C. 156 should be directed to \*>Mail Stop< Patent Ext.

1. Petitions to revive an abandoned national, non-provisional or provisional patent application, 37 CFR 1.137 (both unavoidable delay and unintentional delay), MPEP § 711.03(c).

2. Petitions under 37 CFR 1.183 for waiver or suspension of rules not otherwise provided for.

3. Petitions to invoke the supervisory authority of the \*>Director of the USPTO< under 37 CFR 1.181 in matters not otherwise provided for.

4. For utility and plant applications filed on or after November 29, 2000, petitions for an unintentionally delayed foreign priority claim, 37 CFR 1.55(c), MPEP § 201.14(a).

5. For utility and plant applications filed on or after November 29, 2000, petitions for an unintentionally delayed domestic priority claim, 37 CFR 1.78(a)(3) and (a)(6), MPEP § 201.11.

6. Petitions for deferment of issuance of patents, 37 CFR 1.314, MPEP § 1306.01.

7. Petitions for express abandonment of patent applications after payment of the issue fee, MPEP § 711.01 and MPEP § 1308.

8. Petitions relating to assignments and issuance of patents not otherwise provided for.

9. Petitions relating to public use proceedings, 37 CFR 1.292.

10. Petitions for the withdrawal of attorney under 37 CFR 1.36 in patent applications involved in proceedings before the Office of the Deputy Commissioner for Patent Examination Policy.

11. Petitions under 37 CFR 1.182 in matters not otherwise provided for.

12. Requests by the examiner to the Board of Patent Appeals and Interferences for reconsideration of a decision, MPEP § 1214.04.

13. Petitions to review refusal to accept and record maintenance fee payment filed prior to the expiration of a patent, 37 CFR 1.377, MPEP § 2580.

14. Petitions to accept delayed payment of maintenance fee in an expired patent, 37 CFR 1.378, MPEP § 2590.

15. Petitions to review a decision of Technology Center Director, 37 CFR 1.181.

16. Petitions to withdraw a holding of abandonment not otherwise delegated, 37 CFR 1.181.

17. Requests to order a \*>Director< initiated reexamination proceeding, 37 CFR 1.520.

18. Petitions to accept late papers in a reexamination proceeding based upon unavoidable or unintentional delay, 35 U.S.C. 133 and 35 U.S.C. 41(a)(7).

19. Petitions for access to patent applications under 37 CFR 1.14 with the exception of applications involved in or related to a proceeding before the Board of Patent Appeals and Interferences, MPEP § 103, § 104, and § 1901.05.

20. Petitions relating to reexamination proceedings and/or reissue proceedings under 37 CFR 1.182 and 1.183.

21. Petitions relating to merger of reexamination and reissue proceedings.

22. Petitions for acceptance of national applications without participation of one or more inventors under 37 CFR 1.47, MPEP § 409.03.

23. Petitions relating to patent term extension 37 CFR 1.710-1.785.

24. Petitions under 37 CFR 1.181 to review a determination of the length of the patent term extension under 37 CFR 1.701.

25. Requests for reconsideration of the patent term adjustment indicated in the notice of allowance or in the patent, under 37 CFR 1.705.

26. Requests for reinstatement of the period of patent term adjustment reduced pursuant to 37 CFR 1.704(b), under 37 CFR 1.705(c).

27. Petitions relating to the filing date of patent applications under 37 CFR 1.53 and former 37 CFR 1.60 and 1.62, MPEP § 506.02.

28. Petitions relating to filing and/or issuance of divisional reissue applications, 37 CFR 1.177, MPEP § 1451.

29. Petitions to convert a nonprovisional application filed under 37 CFR 1.53(b) to a provisional application under 37 CFR 1.53(c) where the nonprovisional application is before the Office of Petitions or the Office of Patent Legal Administration.

30. Requests to convert a provisional application filed under 37 CFR 1.53(c) to a nonprovisional application under 37 CFR 1.53(b) where the provisional application is before the Office of Petitions or the Office of Patent Legal Administration.

31. Petitions for extensions of time under 37 CFR 1.136(b) in applications before the Office of Petitions or the Office of Patent Legal Administration.

32. Petitions, or requests at the initiative of the \*>USPTO< by someone other than a Technology Center Director, to withdraw patent applications from issue after payment of the issue fee under 37 CFR 1.313(b) \*\*, MPEP § 1308.

>33. Petitions to withdraw patent applications from issue after payment of the issue fee under 37 CFR 1.313(c).

34. Petitions to expunge papers from patent applications or patent files under 37 CFR 1.59 which were not submitted under MPEP § 724.02 or as part of the IDS.<

### **1002.02(c) Petitions and Requests Decided by the Technology Center Directors [R-2]**

1. Petitions or requests to reopen prosecution of patent applications >or to reinstate a rejection< after decision by the Board of Patent Appeals and Interferences under 37 CFR 1.198, where no court action has been filed, MPEP § 1214.04 and § 1214.07.

2. Petitions from a final decision of examiner requiring restriction in patent applications, 37 CFR 1.144, MPEP § 818.03(c), or holding lack of unity of invention in an international application, 37 CFR 1.477 and 1.489, MPEP § 1875.02.

3. Petitions invoking the supervisory authority of the \*>Director of the USPTO< under 37 CFR 1.181 involving any *ex parte* action or requirement in a patent application by the examiner which is not subject to appeal (37 CFR 1.191) and not otherwise provided for, as for example:

(a) prematureness of final rejection, MPEP § 706.07(c);

(b) holding of abandonment, MPEP § 711.03(c);

(c) requirement to cancel “new matter” from specification, MPEP § 608.04(c);

(d) relative to formal sufficiency and propriety of affidavits under 37 CFR 1.131 (MPEP § 715.08), 1.132 (MPEP § 716) and 1.608, MPEP § 2308 - § 2308.02;

(e) refusal to initiate an interference under 37 CFR 1.601(i), MPEP § 2306;

(f) refusal to enter an amendment under 37 CFR 1.312, MPEP § 714.16(d);

(g) refusal to enter an amendment, 37 CFR 1.127, MPEP § 714.19;

(h) refusal to enter an amendment under 37 CFR 1.111 or 37 CFR 1.115, MPEP § 714.03(a);

(i) resetting period for reply, MPEP § 710.06; and

(j) requirement for information under 37 CFR 1.105, MPEP § 704.11.

4. Petitions under 37 CFR 1.113 relating to objections or requirements made by the examiners.

5. Petitions for return of original oaths of patent applications, MPEP § 604.04(a).

6. Requests for extensions of a set shortened statutory period under 37 CFR 1.136(b) in applications pending in the \*\*>Technology Center<, MPEP § 710.02(e).

7. Petitions under 37 CFR 1.193(a) relating to the form of the appeal.

8. Petitions concerning appealed patent applications or *ex parte* reexamination proceedings before transfer of jurisdiction to the Board of Patent Appeals and Interferences (e.g., extension of time under 37 CFR 1.136(b) or 37 CFR 1.550(c) for filing an appeal brief), MPEP § 1206.

9. Request by applicant for a second or subsequent suspension of action in patent applications under 37 CFR 1.103, MPEP § 709.

10. Petitions from refusal to issue a Certificate of Correction for a patent not involved in an interference, 37 CFR 1.181, MPEP § 1480 - § 1485.

11. Petitions to reinstate appeals dismissed in the Technology Center.

12. Petitions from the denial of a request for reexamination, 37 CFR 1.515, MPEP § 2248.

13. Requests for extension of time in >*ex parte*< reexamination proceedings pending in the Technology Center, 37 CFR 1.550 (c).

14. Petitions under 37 CFR 1.129(b)(2) traversing a restriction requirement made in an application which is subject to the transitional restriction provisions, MPEP § 803.03.

15. Petitions to convert a nonprovisional application filed under 37 CFR 1.53(b) to a provisional application under 37 CFR 1.53(c) where the nonprovisional application is before the Technology Center.

16. Requests for interviews with examiner after a patent application has been sent to issue (Notice of Allowability mailed), MPEP § 713.10, or after

transfer of jurisdiction to the Board of Patent Appeals and Interferences.

17. Petitions to expunge papers from patent \*\* >applications or patent files under 37 CFR 1.59 which were submitted under MPEP § 724.02 or as part of an IDS<.

18. Petitions, or requests at the initiative of the USPTO, to withdraw patent applications from issue before payment of the issue fee, 37 CFR 1.313(a).

19. Requests at the initiative of the USPTO to withdraw patent applications from issue after payment of the issue fee under 37 CFR 1.313(b), MPEP § 1308.

>20. Petitions under 37 CFR 1.91 to admit a model or exhibit as part of the record of an application.

21. Requests for the return of models, exhibits, or specimen under 37 CFR 1.94.

22. Requests to withdraw as attorney or agent of record, 37 CFR 1.36 and MPEP § 402.06.<

### **1002.02(c)(1) Petitions Decided by the Director of Technology Center 3640 [R-2]**

In addition to the items delegated to all >Technology Center< Directors under MPEP § 1002.02(c), authority to decide the following is delegated to the Director of Technology Center 3640:

1. All petitions filed under 35 U.S.C. 267 to extend the time for taking action in United States-owned applications wherein the invention is important to the armament or defense of the United States.

2. All petitions under 37 CFR 1.103(f) to suspend action in United States-owned applications wherein the publication of the invention might be detrimental to the public safety or defense.

Any petitions filed under 35 U.S.C. 267 and/or 37 CFR 1.103(f) in any area of the Office must be forwarded to the Director of Technology Center 3640 for decision thereon.

3. Petitions under 37 CFR 5.12(a) for foreign license to file patent applications in foreign countries, MPEP § 140.

4. Petitions for rescission of secrecy order, 37 CFR 5.4, MPEP § 120.

5. Petitions to permit disclosure of subject matter under a secrecy order, 37 CFR 5.5(b), MPEP § 120.

6. Petitions for modification of secrecy order, 37 CFR 5.5(c), MPEP § 120.

7. Petitions for retroactive foreign filing license, 37 CFR 5.25, MPEP § 140.

8. Petitions relating to refusal of request for publication of a Statutory Invention Registration, 37 CFR 1.295, MPEP § 1105.

9. Petitions relating to request for withdrawal of request for publication of a Statutory Invention Registration, 37 CFR 1.296, MPEP § 1109.

10. Petitions relating to DOE property rights statements under 42 U.S.C. 2182.

11. Petitions relating to NASA property rights statements under 42 U.S.C. 2457.

12. Petitions relating to foreign filing licenses under 35 U.S.C. 184.

13. Petitions concerning review of security or government interest matters not otherwise provided for.

14. Petitions relating to any application under a secrecy order pursuant to 35 U.S.C. 181, including petitions to expunge subject matter from the application to overcome the secrecy order.

### **1002.02(c)(2) Petitions Decided by the Director of Technology Center 1600 [R-2]**

In addition to the items delegated to all \*>Technology Center< Directors under MPEP § 1002.02(c), authority to decide the following is delegated to the Director of Technology Center 1600:

1. Petitions regarding sequence rules, 37 CFR 1.821-1.825.

2. Petitions to make biotechnology applications special where applicant is a small entity, MPEP § 708.02, item XII.

### **1002.02(c)(3) Petitions Decided by the Director of Technology Center 2900**

In addition to the items delegated to all Technology Center Directors under MPEP § 1002.02(c), authority to decide the following petitions and requests filed in design applications is delegated to the Director of Technology Center 2900:

1. Petitions to revive an abandoned national application, 37 CFR 1.137 (both unavoidable delay and unintentional delay), MPEP § 711.03(c).

2. Petitions relating to the filing date of patent applications under 37 CFR 1.53 and former 37 CFR 1.60 and 1.62, MPEP § 506.02.

3. Requests for expedited examination of design applications under 37 CFR 1.155, MPEP § 1504.30.

### **1002.02(d) Petitions and Matters Decided by Supervisory Patent Examiners [R-2]**

1. Entry of amendments under 37 CFR 1.312 which embody more than merely the correction of formal matters without changing the scope of any claim, MPEP § 714.16, § 714.16(d).

2. Approval of reopening prosecution after the filing of an appeal brief in order to incorporate any new ground of rejection, MPEP § 1208.01.

3. Requests for a Certificate of Correction submitted under 37 CFR 1.322 or 1.323 unless the error is clearly minor, clerical or typographical, in which case it is handled by the Certificate of Correction Branch.

4. Requests for a Certificate of Correction to correct a claim even if the request is submitted under 37 CFR 1.322.

5. Petitions under 37 CFR 1.324 to correct errors in joining inventors in a patent that is not involved in an interference, MPEP § 1481.

6. Disapproval of preliminary amendments under 37 CFR 1.115 or second (or subsequent) supplemental amendments (3<sup>rd</sup> reply) under 37 CFR 1.111, MPEP § 714.03(a).

7. Letters to an applicant suggesting claims for purposes of interference, or the submission of Form PTO-850, where one or more claims of one application would differ from corresponding claims of another application. See 37 CFR 1.603 and MPEP § 2303.

8. Amendments presented after decision in an appeal by the Board of Patent Appeals and Interferences as to which the primary examiner recommends entry as placing the application in condition for allowance. See MPEP § 1214.07.

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>9.< Petitions under 37 CFR 1.84 to accept photographs or color drawings in patent applications.

>10.< Withdrawal from appeal of an application remanded by the Board of Patent Appeals and Interferences. See MPEP § 1211.

>11.< Requests for deferral of examination under 37 CFR 1.103(d), MPEP § 709.

### **1002.02(e) Requests Decided by Primary Examiners**

Requests under 37 CFR 1.48 for correction of inventorship in applications.

### **1002.02(f) Petitions and Matters Decided by the Chief Administrative Patent Judge of the Board of Patent Appeals and Interferences**

The Chief Administrative Patent Judge is authorized to redelegate authority to decide any of these petitions or matters to the Vice Chief Administrative Patent Judge of the Board of Patent Appeals and Interferences.

1. Designation of members of the Board of Patent Appeals and Interferences to hear appeals and decide interferences, both initially and on request for reconsideration. 35 U.S.C. 6.

2. Designation of members of the Board of Patent Appeals and Interferences to conduct proceedings in an interference. 37 CFR 1.610(a).

3. Designation of members of the Board of Patent Appeals and Interferences to decide requests for reconsideration. 37 CFR 1.640(c).

4. Requests related to superintending the functions of the Board of Patent Appeals and Interferences, including:

a. Petitions under 37 CFR 1.644 in interferences.

b. Petitions under 37 CFR 1.181, 1.182, and 1.183 from actions of the Board of Patent Appeals and Interferences or of personnel at the Board of Patent Appeals and Interferences.

c. Petitions from a decision under 37 CFR 1.612(a) granting or denying access by a party to an interference to pending and abandoned patent applications. MPEP § 103.

d. Petitions for an extension of time for seeking rehearing in an *ex parte* case before the Board of Patent Appeals and Interferences.

e. Petitions from a decision under 37 CFR 1.615(b) authorizing or declining to authorize continued concurrent prosecution of an application involved in an interference proceeding.

f. Petitions from a decision under 37 CFR 1.613(d) declining to authorize a withdrawal of an attorney or agent from representing a party involved in an interference.

g. Petitions from a decision granting or denying a request for a certificate of correction under 37 CFR 1.322 and 1.323 for a patent involved in an interference.

h. Petitions seeking disqualification of an attorney or agent under 37 CFR 10.130(b) in an *inter partes* case pending before the Board of Patent Appeals and Interferences.

5. Petitions under 35 U.S.C. 135(c):

a. Petitions under 35 U.S.C. 135(c) and 37 CFR 1.666(c) to permit the filing of an agreement or understanding during the 6-month period subsequent to termination of an interference.

b. Petitions under 37 CFR 1.666(b) for access to copies of an interference agreement or understanding filed under 35 U.S.C. 135(c).

### **1002.02(g) Petitions Decided by the Administrative Patent Judges [R-2]**

1. Petitions for access to unopened preliminary statements under 37 CFR 1.631.

2. Petitions under 37 CFR 1.615 for concurrent *ex parte* and *inter partes* prosecution of patent applications, MPEP § 2315.

3. Petitions for the withdrawal of attorney under 37 CFR 1.36 in patent applications involved in interference proceedings under 37 CFR 1.601 - \*1.687< before the Board of Patent Appeals and Interferences, 37 CFR 1.613(d).

4. A request for a Certificate of Correction for a patent that is involved in an interference conducted under 37 CFR 1.601 - \*1.687< presented via a motion under 37 CFR 1.635.

5. Motions to correct errors in joining inventors in proceedings under 37 CFR 1.601 - \*1.687<, 37 CFR 1.634.

See also MPEP § 1002.02(j).

### **1002.02(i) Petitions Decided by the \* Commissioner for Trademarks [R-2]**

Petitions relating to Trademarks are covered in Chapter 1700 of the Trademark Manual of Examining Procedure.

### **1002.02(j) Petitions Decided by the Board of Patent Appeals and Interferences**

Requests under 37 CFR 1.197(b) for a rehearing of a decision of the Board of Patent Appeals and Interferences. MPEP § 1214.03.

### **1002.02(k)(1) \*Petitions and Matters Decided by the General Counsel [R-2]**

>1.< Requests for confidentiality waiver under 35 U.S.C. 122.

>2. Petitions (under 37 CFR 1.304(a)(3) or 37 CFR 2.145(d)) seeking to extend the time for filing a notice of appeal to the U.S. Court of Appeals for the Federal Circuit or for commencing a civil action seeking judicial review of a decision of the Board of Patent Appeals and Interferences or the Trademark Trial and Appeal Board.

3. Petitions under 37 CFR 10.2(c) from a final decision of the Director of Enrollment and Discipline.

4. Appeals under 37 CFR 10.155 of initial decisions of administrative law judges and requests for reconsideration under 37 CFR 10.156 in proceedings under 35 U.S.C. 32 in which the Director of Enrollment and Discipline seeks to exclude or suspend a practitioner from practice before the Patent and Trademark Office.<

### **1002.02(k)(2) Requests Decided by the Office of General Law**

1. Requests filed under the Freedom of Information Act.

2. Petitions requesting review of the FOIA Officer's decision.

### **1002.02(k)(3) Petitions Decided by the Solicitor**

1. Petitions for extension of time in court matters 35 U.S.C. 142, 145, and 146.

2. Petitions relating to *ex parte* questions in cases before the Court of Appeals for the Federal Circuit.

The Office of the Solicitor is available to render legal advice to any deciding official in connection with any petition.

### **1002.02(l) Requests Decided by the Certificates of Correction Branch**

1. Requests for Certificates of Correction under 37 CFR 1.322 or 37 CFR 1.323 except for denials on grounds requiring consideration by the Chief Administrative Patent Judge or the supervisory patent examiners otherwise provided for, MPEP § 1480 - § 1485.
2. Petitions to issue corrected patent, 37 CFR 1.322(b).
3. Request to change inventorship pursuant to court order, 37 CFR 1.324, MPEP § 1481.

### **1002.02(m) Petitions Decided by the Director of Enrollment and Discipline**

1. Petitions relating to registration.
2. Requests for limited recognition under 37 CFR 10.9.
3. Petitions for exceptions to undertakings under 37 CFR 10.10(b)(2), MPEP § 1702.
4. Petitions for regrading of registration examinations under 37 CFR 10.7(c).
5. Petitions for reinstatement under 37 CFR 10.160.
6. Petitions to suspend the rules under 37 CFR 10.170.

### **1002.02(o) Petitions and Other Matters Decided by the Deputy \*\* >Director of the USPTO< [R-2]**

The authority to take the following actions has been delegated to the Deputy \*\* >Director of the USPTO<.

1. Decide petitions to the \* >Director of the USPTO< in patent interference proceedings under 37 CFR 1.644.

2. Decide petitions to the \* >Director of the USPTO< from actions taken by the Board of Patent Appeals and Interferences.

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If there is a vacancy in the position of Deputy \*\* >Director of the USPTO<, decisions on petitions in patent interference cases will be signed by the \*\* >Director of the USPTO<.

Upon receipt of a petition and without waiting for any opposition, the entire interference file is to be forwarded to the Office of the Solicitor. The Solicitor is directed to promptly cause a review to be made of the

petition and to prepare a draft decision for the Deputy \*\* >Director or Director of the USPTO< as may be appropriate. The Solicitor is authorized to take any interlocutory action, i.e., extending times for filing oppositions and seeking judicial review, obtaining agreement on facts from the parties, etc., as may be necessary to promptly dispose of the petition.

### **1002.02(p) Petitions and Matters Decided by the PCT Legal Administrator [R-2]**

1. Petitions to withdraw the Notice of Acceptance and/or filing receipt and indication of the steps necessary for completion of the national stage in a national application requesting treatment under 35 U.S.C. 371.

2. Petitions for withdrawal of attorney or agent of record in proceedings before PCT Operations and/or the Office of the PCT Legal Administrator, 37 CFR 1.36, MPEP § 402.06.

3. Petitions for access to an international application or a national application (i.e., a national stage application or a national application which is continuing from an international application) pending in PCT Operations and/or the Office of the PCT Legal Administrator.

4. Requests under 37 CFR 1.26 or 1.446 for refund of fees paid in an international application or in a national application (i.e., a national stage application or a national application which is continuing from an international application) before PCT Operations and/or the Office of the PCT Legal Administrator.

5. Petitions under 37 CFR 1.182 to convert a national application which was filed under 35 U.S.C. 371 to an application filed under 35 U.S.C. 111(a) or to convert a national application which was filed under 35 U.S.C. 111(a) to an application filed under 35 U.S.C. 371.

6. Petitions under 37 CFR 1.181 to withdraw the holding of abandonment where the holding was made in PCT Operations or in the PCT Legal Office.

7. Petitions under 37 CFR 1.181 to invoke the supervisory authority of the \* >Director of the USPTO< in circumstances arising in PCT Operations and/or the Office of the PCT Legal Administrator other than the circumstances set forth in paragraph 6, above.

8. Petitions under 37 CFR 1.137 (both unavoidable delay and unintentional delay) to revive an application filed under the Patent Cooperation Treaty (PCT).

9. Petitions under 37 CFR 1.425 to accept the signature in an international application on behalf of an applicant.

10. Petitions under 37 CFR 1.47 or a submission under 37 CFR 1.42 \*\* to accept the signature in a national stage application on behalf of an applicant.

11. Requests under 37 CFR 1.48 or a submission under 37 CFR 1.28 (change of inventorship and small entity status, respectively) in a national stage application prior to entry into the national stage.

12. Petitions under 37 CFR 1.182 or 1.183 filed in an international application relating to filing date matters, drawing problems, priority claim issues, Express Mail problems, Chapter II Demand problems, issues relating to obvious error and issues relating to withdrawal.

13. Petitions under 37 CFR 1.182 or 1.183 dealing with circumstances other than those set forth in paragraph 12, but relating to issues under the PCT.

14. Decisions withdrawing an examiner's office action in an application where the application is not in compliance with the PCT provisions of the Treaty, U.S. Law or the Regulations.

15. Petitions dealing with PCT related issues in an application filed under 35 U.S.C. 111(a) (such as applications where there is a potential claim for benefit under 35 U.S.C. 365).

16. Petitions to convert a nonprovisional application filed under 37 CFR 1.53(b) to a provisional application under 37 CFR 1.53(c) where the nonprovisional application is before PCT Operations and/or the Office of the PCT Legal Administrator.

17. Petitions relating to international applications filed under the Patent Cooperation Treaty not otherwise provided for.

### **1002.02(q) Petitions and Requests Decided by the Director of Office of Initial Patent Examination**

1. Requests under 37 CFR 1.48(d) to add the name of an inventor in a provisional application.

2. Requests under 37 CFR 1.48(e) to delete the name of the person erroneously named as an inventor in a provisional application.

3. Petitions to convert a nonprovisional application filed under 37 CFR 1.53(b) to a provisional application under 37 CFR 1.53(c) where the nonprovisional application is before the Office of Initial Patent Examination or where the nonprovisional application is before the Office of Publications.

4. Requests to convert a provisional application filed under 37 CFR 1.53(c) to a nonprovisional application under 37 CFR 1.53(b) where the provisional application is before the Office of Initial Patent Examination.

5. Petitions under 37 CFR 1.182 to accept omitted page(s) or drawing(s) and be accorded a filing date as of the date of such submission, or to accept drawings for purposes of a patent application publication.

6. Petitions to withdraw holding of abandonment where notices of abandonment were mailed by the Office of Initial Patent Examination.

7. Petitions for extension of time under 37 CFR 1.136(b) in applications before the Office of Initial Patent Examination.

### **1002.02(r) Petitions Decided by the Director of Office of Patent Publication [R-2]**

1. Petitions to withdraw holding of abandonment where \*>a notice< of abandonment \*>has been, or could be< mailed by the Office of Patent Publication.

2. Petitions for express abandonment to avoid publication of the application (should be directed to \*\*>Mail Stop Express Abandonment<), 37 CFR 1.138(c), MPEP § 711.01.

3. Requests to issue patent in name of the assignee after payment of the issue fee, 37 CFR 3.81(b), MPEP § 307.

>4. Petitions to withdraw the holding that a patent has lapsed for failure to pay the balance of the issue fee, 37 CFR 1.317.<

### **1002.02(s) Petitions and Matters Decided by the Special Program Examiners in the Technology Centers [R-2]**

1. Petitions to make patent applications special under 37 CFR 1.102, MPEP § 708.02:

(a) on the ground of applicant's age or state of health, MPEP § 708.02, item III & IV;

(b) a continuation-in-part of an earlier application;

(c) under the Environmental Quality Program, MPEP § 708.02, item V;

(d) under the Energy Program, MPEP § 708.02, item VI;

(e) because the application invokes safety of research in the field of Recombinant DNA, MPEP § 708.02, item VII;

(f) under the Special Examining Procedure for certain new applications - accelerated examination, MPEP § 708.02, item VIII;

(g) superconductivity, MPEP § 708.02, item IX;

(h) inventions relating to HIV/AIDS and cancer, MPEP § 708.02, item X;

(i) relating to inventions for countering terrorism, MPEP § 708.02, item XI;

(j) on the ground of prospective manufacture, MPEP § 708.02, item I;

(k) on the ground of infringement, MPEP § 708.02, item II; and

(\*>I<) for reasons not otherwise provided for.

2. Petitions for withdrawal of attorney from application pending in the Technology Centers, 37 CFR 1.36.

### **1003 Matters Submitted to Technology Center Directors [R-2]**

The following is a list of matters which are submitted to the appropriate Technology Center Director, together with a reference to any section of this manual where such matters are more fully treated.

1. Requests for a Certificate of Correction in which the:

i. request raises a novel issue or about which there is some question;

ii. request is for a patent known to be in litigation; or

iii. request deals with a legal matter (e.g., the insertion of foreign priority data or cross referencing to prior U.S. patent applications) unless the file reflects that the examiner has already ruled on the matter and that failure to print the material was clearly an Office error, in which case it will be handled by the Certificate of Corrections Branch.

2. Return of papers entered on the "Contents" of the file wrapper. See MPEP § 201.14(c), § 604.04(a) and § 719.01.

3. Return of papers containing discourteous remarks. See MPEP § 714.19 and § 714.25.

4. Certain rejections on double patenting of divisional (or parent) case when restriction or election of species has previously been required, MPEP § 804.04.

5. Request for patentability report, MPEP § 705.01(e).

6. Actions which hold unpatentable claims copied from a patent for interference purposes where the grounds relied upon are equally applicable to the patentee, MPEP § 2307.02.

7. Interferences between applications neither of which is in condition for allowance, MPEP § 2303.

8. Letters requesting jurisdiction from Board of Patent Appeals and Interferences of applications involved in appeal or interference.

9. Letters to an applicant suggesting claims for purposes of interference, the adoption of which by the applicant would result in the withdrawal of an application from issue, MPEP § 2305.04.

10. Examiner's answers containing a new interpretation of law. See MPEP § 1208.

11. Proposed interferences between applications whose effective filing dates differ by more than 6 months. See MPEP § 2303.

12. Protests filed against issuance of a patent. See MPEP § 1901.06.

13. Letters suggesting claims to an application in issue for purposes of interference with a patent. See MPEP § 2305.04.

14. Requests by the examiner to the Board for reconsideration of a decision before forwarding to the Office of Petitions, MPEP § 1214.04.

15. Second or subsequent suspension of action in patent application under 37 CFR 1.103 on examiner's initiative. MPEP § 709.

16. Request by the examiner to withdraw an application from issue.

17. An unusual fact situation in a patent that establishes:

- i. there is a “compelling reason” to order reexamination, and
- ii. at least one claim in the patent is *prima facie* unpatentable over prior patents and/or printed publications. See 37 CFR 1.520, MPEP § 2239.

18. Applications containing examiner’s answers lacking the appropriate indication that an appeal conference was held. See MPEP § 1208.

>19. Applications identified by the examiner as containing “offensive” subject matter.<

All unusual questions of practice may be referred to the Technology Center Directors.

### 1004 Actions Which Require the Attention of a Primary Examiner

There are some questions which existing practice requires the primary examiner to be personally responsible for. The following actions fall in this category:

- Final rejection (MPEP § 706.07).
- Proposing an interference (MPEP § 2309).
- Disposition of an amendment in an application in interference looking to the formation of another interference involving that application (MPEP § 2364.01).
- Calling Administrative Patent Judge’s attention to a discovered reference which makes a claim corresponding to a count unpatentable (37 CFR 1.641, MPEP § 2341).
- Rejection of a previously allowed claim (MPEP § 706.04).
- Classification of allowed cases (MPEP § 903.07).
- Holding of abandonment for insufficient reply (MPEP § 711.03(a)).
- Suspension of examiner’s action (MPEP § 709).
- Treatment of newly filed application which obviously fails to comply with 35 U.S.C. 112 (MPEP § 702.01).
- Consideration of the advisability of a patentability report (MPEP § 705.01(a)).
- Withdrawal of final rejection (MPEP § 706.07(d) and § 706.07(e)).
- All examiner’s answers on appeal (MPEP § 1208).
- Decision on reissue oath or declaration (MPEP § 1414).

Decision on affidavits or declarations under 37 CFR 1.131 (MPEP § 715.08) and under 37 CFR 1.132 (MPEP § 716).

Decision as to acceptance of amendments, statements, and oaths or declarations filed under 37 CFR 1.48 (MPEP § 201.03).

International Preliminary Examination Reports (MPEP § 1879).

For a list of actions that are to be submitted to the Technology Center Directors, see MPEP § 1002.02(c) and § 1003.

### 1005 Exceptions to Partial Signatory Authority [R-2]

Examiners who are delegated partial signatory authority are expected to sign their own actions with the exception of the following actions which require the signature of the primary examiner:

- Allowances (MPEP § 1302.13).
- Examiner’s amendments (MPEP § 1302.04).
- Quayle actions (MPEP § 714.14).
- Final rejections (MPEP § 706.07 and § 803.01).
- >Withdrawal of final rejection (MPEP § 706.07(d) and (e)).<
- Actions on amendments submitted after final rejection (MPEP § 714.12).
- Examiner’s answers on appeal (MPEP § 1208).
- Initiation of an interference (MPEP § 2309).
- Actions suggesting claims for interference purposes (MPEP § 2305).
- Actions involving copied patent claims (MPEP § 2307).
- Actions reopening prosecution (MPEP § 1214.07).
- Requests for withdrawal from issue (MPEP § 1308).
- 37 CFR 1.312 amendments (MPEP § 714.16).
- Rejection of previously allowed claim (MPEP § 706.04).
- Final holding of abandonment for insufficient reply (MPEP § 711.03(a)).
- Actions based on affidavit or declaration evidence (37 CFR 1.131 and 1.132 (MPEP § 715.08 and § 716)).
- Suspension of examiner’s action (MPEP § 709).
- Reissue applications (decisions on reissue oath or declaration) (MPEP § 1444).

Requests for an extension of time under 37 CFR  
1.136(b) (MPEP § 710.02(e)).  
Reexamination proceedings (MPEP § 2236).

International Preliminary Examination Reports  
(MPEP § 1879).



MANUAL OF PATENT EXAMINING PROCEDURE