

§ 1.314

from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with § 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

(d) A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials before the date of issue. Withdrawal of an application from issue after payment of the issue fee may not be effective to avoid publication of application information.

[65 FR 14873, Mar. 20, 2000, as amended at 65 FR 50105, Aug. 16, 2000]

§ 1.314 Issuance of patent.

If applicant timely pays the issue fee, the Office will issue the patent in regular course unless the application is withdrawn from issue (§ 1.313) or the Office defers issuance of the patent. To request that the Office defer issuance of a patent, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why it is necessary to defer issuance of the patent.

[65 FR 54677, Sept. 8, 2000]

§ 1.315 Delivery of patent.

The patent will be delivered or mailed upon issuance to the correspondence address of record. See § 1.33(a).

[61 FR 42807, Aug. 19, 1996]

§ 1.316 Application abandoned for failure to pay issue fee.

If the issue fee is not paid within three months from the date of the notice of allowance, the application will be regarded as abandoned. Such an abandoned application will not be con-

37 CFR Ch. I (7-1-02 Edition)

sidered as pending before the Patent and Trademark Office.

[62 FR 53198, Oct. 10, 1997]

§ 1.317 Lapsed patents; delayed payment of balance of issue fee.

If the issue fee paid is the amount specified in the notice of allowance, but a higher amount is required at the time the issue fee is paid, any remaining balance of the issue fee is to be paid within three months from the date of notice thereof and, if not paid, the patent will lapse at the termination of the three-month period.

[62 FR 53198, Oct. 10, 1997]

§ 1.318 [Reserved]

DISCLAIMER

§ 1.321 Statutory disclaimers, including terminal disclaimers.

(a) A patentee owning the whole or any sectional interest in a patent may disclaim any complete claim or claims in a patent. In like manner any patentee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of the patent granted. Such disclaimer is binding upon the grantee and its successors or assigns. A notice of the disclaimer is published in the Official Gazette and attached to the printed copies of the specification. The disclaimer, to be recorded in the Patent and Trademark Office, must:

(1) Be signed by the patentee, or an attorney or agent of record;

(2) Identify the patent and complete claim or claims, or term being disclaimed. A disclaimer which is not a disclaimer of a complete claim or claims, or term will be refused recordation;

(3) State the present extent of patentee's ownership interest in the patent; and

(4) Be accompanied by the fee set forth in § 1.20(d).

(b) An applicant or assignee may disclaim or dedicate to the public the entire term, or any terminal part of the term, of a patent to be granted. Such terminal disclaimer is binding upon the grantee and its successors or assigns. The terminal disclaimer, to be recorded in the Patent and Trademark Office, must: