

§ 1.88

drawings in abeyance will not be considered a *bona fide* attempt to advance the application to final action (§1.135(c)). If a drawing in a design application meets the requirements of §1.84(e), (f), and (g) and is suitable for reproduction, but is not otherwise in compliance with §1.84, the drawing may be admitted for examination.

(b) The 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) If a corrected drawing is required or if a drawing does not comply with §1.84 at the time an application is allowed, the Office may notify the applicant and set a three month period of time from the mail date of the notice of allowability within which the applicant must file a corrected or formal drawing in compliance with §1.84 to avoid abandonment. This time period is not extendable under §1.136(a) or §1.136(b).

[65 FR 54670, Sept. 8, 2000, as amended at 65 FR 57055, Sept. 20, 2000]

§ 1.88 [Reserved]

MODELS, EXHIBITS, SPECIMENS

AUTHORITY: Secs. 1.91 to 1.95 also issued under 35 U.S.C. 114.

§ 1.91 Models or exhibits not generally admitted as part of application or patent.

(a) A model or exhibit will not be admitted as part of the record of an application unless it:

(1) Substantially conforms to the requirements of §1.52 or §1.84;

(2) Is specifically required by the Office; or

(3) Is filed with a petition under this section including:

(i) The fee set forth in §1.17(h); and

(ii) An explanation of why entry of the model or exhibit in the file record is necessary to demonstrate patentability.

(b) Notwithstanding the provisions of paragraph (a) of this section, a model, working model, or other physical exhibit may be required by the Office if

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deemed necessary for any purpose in examination of the application.

[62 FR 53190, Oct. 10, 1997, as amended at 65 FR 54670, Sept. 8, 2000]

§ 1.92 [Reserved]

§ 1.93 Specimens.

When the invention relates to a composition of matter, the applicant may be required to furnish specimens of the composition, or of its ingredients or intermediates, for the purpose of inspection or experiment.

§ 1.94 Return of models, exhibits or specimens.

Models, exhibits, or specimens in applications which have become abandoned, and also in other applications on conclusion of the prosecution, may be returned to the applicant upon demand and at his expense, unless it be deemed necessary that they be preserved in the Office. Such physical exhibits in contested cases may be returned to the parties at their expense. If not claimed within a reasonable time, they may be disposed of at the discretion of the Commissioner.

§ 1.95 Copies of exhibits.

Copies of models or other physical exhibits will not ordinarily be furnished by the Office, and any model or exhibit in an application or patent shall not be taken from the Office except in the custody of an employee of the Office specially authorized by the Commissioner.

§ 1.96 Submission of computer program listings.

(a) *General.* Descriptions of the operation and general content of computer program listings should appear in the description portion of the specification. A computer program listing for the purpose of this section is defined as a printout that lists in appropriate sequence the instructions, routines, and other contents of a program for a computer. The program listing may be either in machine or machine-independent (object or source) language which will cause a computer to perform a desired procedure or task such as solve a problem, regulate the flow of

work in a computer, or control or monitor events. Computer program listings may be submitted in patent applications as set forth in paragraphs (b) and (c) of this section.

(b) *Material which will be printed in the patent:* If the computer program listing is contained in 300 lines or fewer, with each line of 72 characters or fewer, it may be submitted either as drawings or as part of the specification.

(1) *Drawings.* If the listing is submitted as drawings, it must be submitted in the manner and complying with the requirements for drawings as provided in §1.84. At least one figure numeral is required on each sheet of drawing.

(2) *Specification.* (i) If the listing is submitted as part of the specification, it must be submitted in accordance with the provisions of §1.52.

(ii) Any listing having more than 60 lines of code that is submitted as part of the specification must be positioned at the end of the description but before the claims. Any amendment must be made by way of submission of a substitute sheet.

(c) *As an appendix which will not be printed:* Any computer program listing may, and any computer program listing having over 300 lines (up to 72 characters per line) must, be submitted on a compact disc in compliance with §1.52(e). A compact disc containing such a computer program listing is to be referred to as a "computer program listing appendix." The "computer program listing appendix" will not be part of the printed patent. The specification must include a reference to the "computer program listing appendix" at the location indicated in §1.77(b)(4).

(1) Multiple computer program listings for a single application may be placed on a single compact disc. Multiple compact discs may be submitted for a single application if necessary. A separate compact disc is required for each application containing a computer program listing that must be submitted on a "computer program listing appendix."

(2) The "computer program listing appendix" must be submitted on a compact disc that complies with §1.52(e) and the following specifications (no other format shall be allowed):

(i) Computer Compatibility: IBM PC/XT/AT, or compatibles, or Apple Macintosh;

(ii) Operating System Compatibility: MS-DOS, MS-Windows, Unix, or Macintosh;

(iii) Line Terminator: ASCII Carriage Return plus ASCII Line Feed;

(iv) Control Codes: the data must not be dependent on control characters or codes which are not defined in the ASCII character set; and

(v) Compression: uncompressed data.

[61 FR 42804, Aug. 19, 1996, as amended at 65 FR 54670, Sept. 8, 2000]

INFORMATION DISCLOSURE STATEMENT

§ 1.97 Filing of information disclosure statement.

(a) In order for an applicant for a patent or for a reissue of a patent to have an information disclosure statement in compliance with §1.98 considered by the Office during the pendency of the application, the information disclosure statement must satisfy one of paragraphs (b), (c), or (d) of this section.

(b) An information disclosure statement shall be considered by the Office if filed by the applicant within any one of the following time periods:

(1) Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);

(2) Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;

(3) Before the mailing of a first Office action on the merits; or

(4) Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.

(c) An information disclosure statement shall be considered by the Office if filed after the period specified in paragraph (b) of this section, provided that the information disclosure statement is filed before the mailing date of any of a final action under §1.113, a notice of allowance under §1.311, or an action that otherwise closes prosecution in the application, and it is accompanied by one of:

(1) The statement specified in paragraph (e) of this section; or

(2) The fee set forth in §1.17(p).