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14-1.

Introductory

The Patent Office in administering the Patent laws makes many decisions of a discretionary nature, which the applicant may feel denies him the patent protection to which he is entitled. The differences of opinion on such matters can only be justly resolved by prescribing and following judicial procedures. Where the differences of opinion concern the denial of patent claims because of prior art or material deficiencies in the disclosure set forth in the application or because several divisible inventions are joined in the same case, the questions there by raised are said to relate to merits and appeal procedures within the Patent Office and to the courts and law, both provided by statute.

The line of demarcation between appealable matters for the Board and petitionable matters for the Commissioner should be carefully observed. The Board will not ordinarily hear a question which they believe should be decided by the Commissioner, and the Commissioner will not ordinarily entertain a petition where the question presented is an appealable matter, (except, of course, when he is sitting as one member of a Board of Appeals).

14-1-1. Present System of Review on Appeal from and

Examiner

Appeal to Board of Appeals

R.S. 4911

Appeal to U.S.
Court of Customs
and Patent Appeals

R.S. 4917

Court of Appeals
U.S. District Court

Appeal to U.S. Court
of Appeals

U.S. Supreme Court
(by writ of certiorari,
which is rarely
granted)

14-1-2. Constitution of Board

Sec. 482 R.S. provides for constitution of the Board of Appeals as follows.

The Commissioner of Patents, the First Assistant Commissioner, the Assistant Commissioners, and the Examiners in Chief shall constitute a Board of Appeals, whose duty it shall be, on written petition of the appellant, to review and determine upon the validity of the adverse decisions of Examiners upon applications for patents and for reissues of patents. Each appeal shall be heard by at least three members of the Board of Appeals, the members hearing such appeal to be designated by the Commissioner.

14-1-3. Administrative Handling

The Mails and Files Division on receipt of an appeal and the brief filed in connection therewith forwards them to the Board room where they are entered by the Administrative Assistant to the Board in a register of appeals. They are then sent to the examining division having jurisdiction of the case.

The dates of the appeal and brief and of the examiner's answer thereto are entered in the clerk's register. When the examiner's answer is mailed, the file, together with the photographic copies of the drawings, if any, is forwarded to the Board of Appeals, which sets the case for hearing. It is not necessary to send copies of the references relied upon as these are ordered by the administrative assistant to the Board.

14-1-4. Prerequisites for Appeal

Rule 42.1 Appeal to the Board of Appeals. Every applicant for a patent or for reissue of a patent, any of the claims of whose application have been twice rejected, or who has been given a final rejection (rule 15.3), and every applicant who has been twice required to divide his application (rule 11.3), may, upon the payment of the fee required by law, appeal from the decision of the Primary Examiner to the Board of Appeals within the time allowed for response.

The appeal must set forth in writing the points of the decision upon which it is taken and identify the rejected claim or claims appealed, and must be signed by the

applicant or his duly authorized attorney or agent.

Except as otherwise provided by rules 11.4 and 23.6 appeal when taken must be taken from the rejection of all claims under rejection which applicant proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

It is to be observed that such appeal to the Board lies only from a rejection of claims, a requirement to divide being considered as a rejection of the claims for majorinder of invention.

In addition, such appeal must include all the finally rejected claims standing on the case at the time appeal is taken and the appeal will not ordinarily be forwarded where only some of the rejected claims have been twice or finally rejected. Ex parte Brown 1002 C.D. 51 98 O.G. 1705.

Exceptions.

A. Rule 11.4 permits an appeal from a final requirement for division in advance of any further action on the claims. The prosecution of the remaining claims may be continued during such appeal.

B. Rule 23.6 permits partial appeal in cases where there are finally rejected claims except from a patent.

14-1-5.

Time for filing brief

Rule 132.2: Appellant's brief. The appellant shall, within sixty days from the date of the appeal, or within six months from the date of the action appealed from, if such time is later, file a brief of the authorities and arguments, in which he will reply to maintain his appeal, including a copy of the claims involved, at the same time indicating if he desires an oral hearing.

On failure to file the brief within the time allowed, the appeal shall be dismissed.

Examiner's Statement

Rule A32.3: Examiner's answer. The Primary Examiner may, within such time as may be directed by the Commissioner, furnish a written statement in answer to the appellant's brief including a concise explanation of the invention claimed and of the references and grounds of rejection, supplying a copy to the appellant. If the Primary Examiner shall find that the appeal is not regular in form or does not relate to an appealable action, he shall so state and a petition from such decision may be taken to the Commissioner as provided in rule 31.1.

The appellant may file a reply brief directed only to such new points as may be raised in the Examiner's answer, within twenty days from the date of such answer.

The Examiner should also include with such statement three, new photostatic copies of the drawing in the case, if there be one, as it stands at the time of appeal.

Of particular importance is the necessity for explaining clearly the pertinence of the references. The references should be specifically applied and where a reference includes many pages of description or several sheets of drawings and only a portion of the same is relied upon, the Board would be considerably helped if the Examiner identifies the particular part of the description by page (and line if appropriate) or pages and in the case of the drawing by figure or figures. The Board has the authority to remand a case to the Examiner for a better statement.

It is well for the Examiner to bear in mind that "a case well stated is half proved". He should realize that he is closer to the fact of the case than the Board and should give them as much background of the case as necessary to facilitate an understanding of the issues involved.

No soft copies of references not cited in the Examiner's statement should be left in the file.

A form suitable for such statement is as follows:

Entitled _____
 In _____ Appeal to Board of Appeals
 Application _____ on Appeal No. _____

Examiner's statement

This is an appeal from the final rejection of Claims 1, 3, 5, and 7 which are all the claims in the case.

(If they are allowed in the case this fact should be stated thus: Claims 2, 4, and 6 have been allowed. The introductory sentence would be modified to meet the situation accordingly. If appeal is also taken from a requirement to divide between certain groups of claims, that fact should also be recited in the opening paragraph.)

The appealed claims are as follows:
(Rejected claims copied in sequence, single space, with ordinals)

The references relied upon are as follows:

MacFiedelbaum	1,000,001	Jan. 3, 1910
Zilch	2,000,002	Dec. 13, 1935

(Here follows a concise, paraphrased explanation of the invention claimed)

(Following above is a restatement of the several grounds of rejection of the claims involved).

For the reasons above given it is urged that the final rejection should be sustained.

Respectfully,

By _____

14-1-6.1

Citation of Decisions

In an Examiner's statement, whenever a decision of the United States Court of Customs and Patent Appeals is cited, such citation should include that from the official reports of that court (for instance, 22 CCA 915), and should such decision not then have been published in the Official reports of that court, it should be indicated that it is a decision of such court and the citation from the Federal Reporter be given if it has been published there.

As regards decisions of the Supreme Court of the United States and the Federal Courts, the citation should be given from the Official reports of the Supreme Court.

and the Federal Reporter, respectively, and should such decision have been published in the Official Gazette and not then published elsewhere, the court by whom the case was decided should be indicated and the date of the decision given.

14-1-6.2.

Discovery of New Ground
of Rejection after Appeal

Sometimes, after appeal, a reference is found which the Examiner feels should be included in the Examiner's statement. Since the inclusion of such a reference would give the appellant the option of reopening prosecution, the Examiner should secure the permission of the Supervisory Examiner before doing so. Where the newly found reference applies also to allowed claims or where the new reference drastically alters the issues involved in the appeal, the Supervisory Examiner may recommend that the appeal be held in abeyance and the prosecution reopened.

If the Examiner's statement includes a new reference or other grounds of rejection, the appellant may proceed with the appeal or may request that the case be returned to the Examiner for resumed prosecution which is the practice stated in *Ex parte Mevey* 1891 C. D. 115; 56 O. G. 805. If the appellant elects to proceed before the Examiner, he must file a proper response within the statutory period dating from the Examiner's statement. The mere request for remand is not a sufficient response. The appellant should respond to the new ground of rejection.

Where the appellant acts outside the statutory period to restore the case to active status before the Examiner, the Examiner returns the case to the Board with a report of this fact. The case retains its status as being on appeal provided the request for remand was made prior to the date of hearing and without withdrawing the appeal; see *Ex parte McIlvaine* 164 Ms. 979; Case No. 5, 23 J. P. O. S. 857.

14-1-6.3.

Withdrawal of Final Rejection

The Examiner can withdraw the final rejection at any time prior to the hearing. It is possible that after reading the brief that Examiner may be convinced that some or all of the finally rejected claims are allowable. Where he is of the opinion that some of the claims are allowable he should so specify in the Examiner's statement and confine his arguments to the remaining rejected claims. If he finds, upon reconsideration, that all the rejected claims are allowable, or where the applicant in his brief withdraws the appeal as to some of the rejected claims and the Examiner finds that remaining claims to be allowable, he should notify the Administrative Assistant of the Board of this fact

so that the appeal may be removed from the records.

14-1-6.A.

Where Statement is not
Found Necessary

An examiner's statement need not be made in those cases where (1) appellant's brief contains a concise explanation of the invention claimed, (2) the final rejection is deemed sufficient in that all questions raised by the brief are fully answered and (3) the appeal is regular in form. In such cases, the following statement should be made:

"Appellant's brief has been fully considered and is not found to raise any points not covered by the final rejection, accordingly, no Examiner's Statement is deemed to be necessary."

14-1-7.

Oral Hearing

Rule 132.5. Zoning. If no request for oral hearing has been made on filing of the brief, the appeal will be assigned for consideration and decision. If the appellant has requested an oral hearing, a day of hearing will be set and due notice thereof given to the appellant. Hearing will be held as stated in the notice, and oral argument will be limited to one-half hour unless otherwise ordered before the hearing begins.

14-1-8.

Amendment Filed With or After Appeal
but Before Examiner's Statement

It is not of infrequent occurrence that an amendment is filed along with an appeal. Failure of an examiner to notify an applicant of the disposition made of such amendment, or of one filed after appeal but before forwarding the Examiner's Statement, may leave the applicant uninformed as to the exact matter upon which the appeal must be prosecuted. Since an applicant has the right to petition from an adverse holding as to the entry of any amendment, irrespective of the status of the case at the time of filing the amendment, he is entitled to be advised as to its entry or non-entry. Such notification may be given in the Examiner's Statement if the amendment is entered but where entry is denied, the applicant should ordinarily be advised to this effect in advance of the Examiner's Statement and the preparation of the statement delayed for a time sufficient to enable the applicant to petition, if he so desires, from the Examiner's refusal to admit the amendment. Ex parte Bach 1905 CD 383; 118 OG 1763.

Where the amendment is refused entry, the Examiner should write a letter stating the reasons for non-entry such as, for example, a. the claims as amended present new issues requiring further consideration or search, b. since the amendment presents additional claims without cancelling corresponding finally rejected claims it is not considered as placing the application in better condition for appeal; Ex parte Wirt 1905 CD 247, 117 OG 599.

The refusal should never be made to appear to be arbitrary. The proposed amendment should be given sufficient consideration at least to determine whether it obviously places any of the claims in condition for allowance or would simplify the issues on appeal.

Applicant cannot as a matter of right add new claims after a final rejection (Rule 16.2), or reinstate previously cancelled claims, for purpose of appeal.

14-1-8.1.

Actions Subsequent
to Examiner's Statement
but Before Board's Decision

JURISDICTION OF BOARD

With the mailing of the Examiner's statement on appeal, jurisdiction of the case passes to the Board of Appeals; and any amendment filed thereafter but prior to the decision of the Board will be considered by the Examiner only in the event the case is remanded to him by the Board.

DIVIDED JURISDICTION

Where appeal is taken only from the final rejection of a copied patent claim or claims only, jurisdiction of the rest of the case remains with the Examiner, and prosecution of the unallowed claims should proceed as though the entire case was under the jurisdiction of the Examiner.

14-1-8.2.

Remand by the Board to
Consider Amendment

Where an amendment or an affidavit is filed in an appealed application prior to the Board's decision, the Board usually remands the case to the Examiner for such consideration of the amendment or affidavit as he may see fit to give.

If the proposed amendment is in effect an abandonment of the appeal, as, by canceling the appealed claims and adding new ones which the Examiner is willing to allow, or so amending the appealed claims as to render them

patentable in the opinion of the Examiner, the amendment will be entered, the Administrative Assistant to the Board of Appeals being so notified in order that the case may be stricken from the Board's docket.

The Board may also remand the case to the Examiner for further search where it feels that the most pertinent art has not been cited.

14-1-8.3. Remand To Consider Affidavits

Rule 32.6 Affidavits after appeal.

Affidavits or exhibits submitted after the case has been appealed will not be admitted by the Board without a showing of good and sufficient reasons why they were not earlier presented, and without remanding the case to the Primary Examiner for consideration; but the Board of Appeals may, in its discretion, refuse to remand the case and proceed with the same without admitting the affidavits or exhibits.

When a case is remanded to the examiner for the consideration of affidavits, the examiner, after having given the affidavits such consideration as the facts in the case require, will return the case to the Board of Appeals with his report, a copy of which should be forwarded to the applicant's attorney.

If an affidavit under Rule 18-1 is not accompanied by the showing required by Rule 32.6, the examiner will not consider the merits of such affidavit.

If, however, the delay in filing the affidavit is satisfactorily explained, the examiner will then admit the same and consider its merits. If this affidavit is accepted as overcoming the reference, or references, used in the final rejection, and a new reference having a filing date prior to the date of invention established in the affidavit, or having a publication date more than one year prior to the applicant's filing date, is found, it may be substituted by the examiner for the one overcome without thereby reopening the case to further prosecution before the examiner. *Ex parte Bowyer*, 1939 C.D. 5; 505 O.G. 759.

14-1-9. Decision by Board

Rule 32.7 Decision by the Board of Appeals. The Board of Appeals, in its decision, may affirm or reverse the decision of the Primary Examiner in whole or in part on the grounds and on the claims specified in

the Examiner's statement. The affirmance of the rejection of a claim on any of the grounds as specified in his statement constitutes a general affirmance of the decision of the Primary Examiner on that claim, except as to any grounds specifically reversed.

14-1-9.1. Recommendations

Rule 32.7. Should the decision of the Board of Appeals include an explicit statement that a claim may be allowed in amended form, applicant shall have the right to amend in conformity with such statement, which shall be binding on the Primary Examiner, in the absence of new references or grounds of rejection.

However, if the examiner knows of references or reasons which were not before the Board, such a favorable recommendation is not binding upon him. Likewise should applicant make any change in a favorably recommended claim, the same would tend to destroy the force of such recommendation. Ex parte Young 18 Gour. 24:31.

14-2. Actions Following Decision by Board

14-2-1. New Ground of Rejection

Rule 32.7. Should the Board of Appeals discover any grounds not involved in the appeal for rejecting any claim, it may include in its decision a rejection on such grounds with its reasons for so holding. The appellant may then have the case reconsidered by the Board of Appeals, with or without appropriate amendment of the claims so rejected; the Board may remand the case to the Primary Examiner for statement of his views, or other appropriate action. Where such request for reconsideration is made, the Board of Appeals shall if necessary render a new decision. The appellant may waive reconsideration by the Board of Appeals and treat the decision, including the added grounds for rejection given by the Board of Appeals, as a final decision in the case.

The request for reconsideration by the Board must of course be filed while the case is still within the Board's jurisdiction i.e., within sixty calendar days from the Board's decision. By proceeding in this manner,

the applicant waives his right to further prosecution before the Examiner. In re Greenfield 1950 C.D. 531; 400 O.G. 226.

Where the applicant elects to proceed before the Examiner, the statement of the Board stands as a rejection and the application is placed in the files awaiting action by applicant which action must be taken within six months from the date of the Board's decision. Ex parte King 1928 C.D. 1; 356 O.G. 3; ex parte Ruchenberg 1924 C.D. 55; 327 O.G. 216.

The applicant may amend his claims, or substitute new claims to avoid the art or reasons adduced by the Board. Ex parte Burrowes 1904 C.D. 155; 110 O.G. 599. Such amended or new claims must be directed to the same subject matter as the appealed claims, Ex parte Comstock 1923 C.D. 82; 317 O.G. 4.

Argument without amendment of the claims so rejected can result only in a final rejection of the claims, since the examiner is without authority to allow the claims unless amended or unless the rejection be overcome by a showing of facts not before the Board. The new ground of rejection raised by the Board does not reopen the prosecution except as to that subject matter to which the new rejection was applied.

As a third option, applicant may treat such decision of the Board as final and file either a direct appeal therefrom to the C.C.P.A., or a suit in equity under 35 U.S.C. 4915. In re Growell 1930 C.D. 360; 397 O.G. 3. Where the applicant avails himself of the third option, he waives his right to reconsideration by the Board, or by the examiner, discussed above. In re Heinz 1910 C.D. 292; 150 O.G. 1014.

14-2-2.

Procedure after Decision

After an appeal to the Board of Appeals has been decided, a copy of the decision is mailed to the applicant and the original placed in the files. The Administrative Assistant to the Board notes the decision on the file wrapper and in the record of appeals, and then forwards the file to the Primary Examiner through the office of the Supervisory Examiner.

Any request or petition for rehearing or reconsideration must be filed before the limit of appeal to the U.S. Court of Customs and Patent Appeals expires. (See rule 54 for stay of time for appeal to the court).

14-2-3.

Rehearing and Reconsideration

Where there is an affirmance of the examiner on any claim, the soft copies of the patents used in the original appeal should be left in the file for at least sixty calendar days following the Board's decision for the convenience of the Board in the event that the appellant requests reconsideration.

14-2-4.

Examiner Reversed

A complete reversal of the examiner's rejection brings the case up for immediate action by the examiner.

The examiner should never regard such a reversal as a challenge to make a new search to uncover other and better references. This is particularly so where the application has meanwhile been transferred or assigned to an examiner other than the one who finally rejected the claims. The second examiner should give full faith and credit to his predecessor's search. Of course, if the examiner has specific knowledge of the existence of a particular reference which obviously meets the terms of any of the appealed claims as to which the examiner was readvised, he should submit the matter to the Supervisory Examiner to determine whether the Commissioner should be requested to authorize the reopening prosecution under Rule 32.9 for the purpose of entering the new rejection.

14-2-5.

Appeal Withdrawn on Claims
Not Allowed

Where an appellant withdraws some of the appealed claims, and the Board reverses the examiner on the remaining appealed claims, the withdrawal is treated as an authorization to cancel the withdrawn claims. It is not necessary to notify the applicant of the cancellation of the withdrawn claims.

14-2-6.

Examiner Sustained in Whole
or in Part

If the examiner was sustained either in whole or in part, the next action must be taken by the applicant, either by way of further appeal or suit in equity or by cancellation of the rejected claims if there be an allowed claim in the case. It is improper to notify applicant of the status of the case unless asked to do so.

14-2-7.

Reopening of Prosecution

Rule 32.9 Reopening after decision.

Cases which have been decided by the Board of Appeals will not be reopened by the Primary Examiner, except under the provisions of rule 32.7, without the written authority of the Commissioner, and then only for the consideration of matters not already adjudicated, sufficient cause being shown.

Some times an amendment is filed after the Board's decision which does not carry into effect any recommendation made by the Board and which presents a new or amended claim or claims. In view of the fact that the prosecution of the case is definitely closed, the applicant clearly is not entitled to have such amendment entered as a matter of right. However, if the amendment obviously places the case in condition for allowance, the Primary Examiner should endorse in the amendatory paper a recommendation that the amendment be admitted, and on approval by the Supervisory Examiner the amendment will be entered.

Where the amendment cannot be entered, the Examiner should write to the applicant notifying him that the amendment cannot be entered and stating the reason why. The refusal should never be made to appear arbitrary or capricious. A letter such as the following might be used:

The amendment filed ----- after the Board's decision is refused entry because the prosecution is closed and the Examiner is without authority to enter the same; see Rule 32.9. Moreover, the new claims (or claims as amended) raise new issues requiring further consideration or search.

14-3. Withdrawal or Dismissal of Appeal

14-3-1. Withdrawal of appeal

Where, after appeal has been filed and before decision by the Board of Appeals, an appellant withdraws the appeal more than six months after the date of the final rejection, the application is to be considered abandoned as of the date on which the appeal was withdrawn unless there are allowed claims in the case.

Where a letter abandoning the application is filed in accordance with Rule 19.4, the effective date of abandonment is the date of filing of such letter, which is the usual practice.

14-3-2.

Claims Standing Allowed

If the application contains allowed claims, as well as claims appealed, the withdrawal of the appeal does not operate as an abandonment of the application, but is considered a withdrawal of the appealed claims and authority to the examiner to cancel the same. An amendment canceling the appealed claims is equivalent to a withdrawal of the appeal.

14-3-3.

Partial Withdrawal

A withdrawal of the appeal as to some only of the claims on appeal operates to withdraw those claims from the case and the appeal continues as to the remaining claims. The withdrawn claims will be cancelled by the examiner when necessary without further action by the applicant.

14-3-4.

Failure to Prosecute Appeal

If a brief is filed within the time allowed, failure to appear at the hearing will result only in the case being considered on brief. If no brief is filed the appeal stands dismissed and the application is considered as abandoned on the date set for the filing of the brief regardless of whether there are allowed claims. The letter from the Board of Appeals notifying the appellant that the appeal stands dismissed is not an action in the case and does not start a new period for reply.

14-3-5.

Case Before the Court

When the case is before the court either on appeal or in a civil action under R. S. 4915, the status of the application in the event of a dismissal must be determined according to the circumstances leading to the dismissal. In no event will the application be considered abandoned as of a date prior to the date of the dismissal by reason of the dismissal alone.

14-4.

Appeals to Courts

Files of cases carried to the Courts, either by appeal to the Court of Customs and Patent Appeals or by suit in equity in the District Court for the District of Columbia, are not opened by the Patent Office to the public.

During the pendency of a suit, while the file is retained in the examining division until the case comes up for trial, the application is not under jurisdiction

of the examiner; and any amendment, as one copying claims from a patent for interference purposes, can be admitted only under the provisions of Rule 32.9.

14-4-1. To Court of Customs and Patent Appeals

If, from an adverse decision by the Board, appeal is taken to the U.S. Court of Customs and Patent Appeals, the Chief of the Docket Division to whom the appeal is sent obtains the file from the Primary Examiner and selects those papers which should form the transcript of record, notifies appellant of the papers selected, and forwards a list of the references to the Manuscript Division.

After the Court has heard and decided the appeal, a copy of the decision is sent to the Patent Office and one to the appellant. Where the appellant files a petition for rehearing, the court's ruling thereon is communicated to the Office and to the appellant by the clerk of the court.

Finally the clerk of the court forwards to the Office a certified copy of the court's decision on the appealed claims together with a copy to be mailed to the appellant. This copy is a duplicate of the uncertified copy first forwarded, unless modified as a result of the petition for rehearing or, possibly, altered to correct some minor error. This certified copy constitutes the "final order" of the court. But the date of the certificate itself is not controlling as to the statutory period running against the case.

The Docket Division mails to the applicant his copy of the court's decision, and enters the other copy in the application file. The Docket Clerk also makes a copy for publication in the Official Gazette.

The file is then returned to the Primary Examiner. Further action, if any, on the part of the examiner is determined by the court's decision. No action is taken by the examiner unless all claims appealed have been allowed.

In the case of an appeal to the Court of Customs and Patent Appeals, a transcript of the record must be filed with the Court within the specified 60-day period following the decision of the Board of Appeals. The decision of the Court is published; but unless the application becomes a patent, the public is not given access to the application file itself. Since a transcript of the application becomes a part of the court record, it may of course be inspected by anyone.

Similar practice applies in the case of an amendment filed after a decision by one of the courts (R.S. 4911 or 4915), as in the case of such an amendment filed subsequent to a decision by the Board of Appeals.

14-4-1.1. Period for Response

In a case appealed to the C.C.P.A., the statutory period starts with the date on which the Court renders its decision, as appears at the top of the carbon copy certified to the Office by the Clerk of the Court at a later date. However, if the appellant seasonably petitions for a rehearing this stays the running of the statutory period, and a new one begins with the date of decision on the petition. This date may not appear in the Office file but may be had from the Solicitor's Office. (Ex parte C. 167 Ms. 552 and 666.)

14-4-2. Suits Under R.S. 4915

When a suit under R.S. 4915 is filed a Notice thereof signed by the Solicitor of the Patent Office is placed in the application file. The file, however, is returned to the examining division and remains in the custody of the Examiner until the case comes up for trial, after which the file is kept in the Solicitor's office pending termination of the suit. The applicant is required to furnish the Court a certified copy of the file wrapper and contents at the time of the trial. If the suit is dismissed before coming to trial, no disclosure of the application to the public necessarily results from the filing of the suit. Unlike an appeal to the U.S. Court of Customs and Patent Appeals, the filing of a suit in equity does not require the immediate filing of a transcript of the application. The complaint is open to the public.

Files subpoenaed by Court may be sent to the Court in care of a Patent Office employe along with a certified copy, under stipulation that the copy be retained by the Court and the original brought back to the Office by said employe.

14-4-2.1. Period of Response

A decision, whether favorable or unfavorable, following the trial in a civil action under R.S. 1915 marks by its date the beginning of a new statutory period. But the dismissal of such suit either on motion or for want of prosecution does not date a new statutory period. (Ex parte M-167 Ms. 786).