

351.310. If a hearing is requested, the Department will notify interested parties of the hearing schedule.

Interested parties are invited to comment on the preliminary results of this review. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than five days after the time limit for filing the case brief. See 19 CFR 351.309(c) and (d). Parties who submit case briefs or rebuttal briefs in this review are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument with an electronic version included.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**. See section 751(a)(3)(A) of the Act.

#### Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries.

For these preliminary results, we divided the total dumping margins (calculated as the difference between normal value and export price) for LMEL/LLPL's importers or customers by the total number of metric tons LMEL/LLPL sold to the importer or customer. We will direct CBP to assess the resulting per-metric-ton dollar amount against each metric ton of merchandise in each importer's/customer's entries during the review period. Additionally, because we have collapsed LMEL and LLPL, we will instruct CBP to liquidate entries of LLPL-produced merchandise at the LMEL/LLPL rate.

The Department clarified its automatic-assessment regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by LMEL for which LMEL did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries of merchandise produced by LMEL at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Assessment of Antidumping Duties*.

Consistent with *Assessment of Antidumping Duties*, for companies which claimed they had no shipments of subject merchandise to the United States, *i.e.*, LSIL and UTP, if there are any entries of subject merchandise

produced by these entities into the United States, we will instruct CBP to liquidate the unreviewed entries of merchandise at the all-others rate.

With respect to entries by companies that were not selected for individual examination, *i.e.*, Jindal Pipes Limited, Maharashtra Seamless Limited and Ratnamani Metals Tubes Ltd., we will instruct CBP to liquidate entries of merchandise produced and/or exported by these firms at the rate established for LMEL/LLPL.

For companies which reported that their supplier (LMEL) had knowledge that its merchandise was destined for the United States, *i.e.*, Makalu, Uttam, and Ushdev, and otherwise had no shipments or sales of their own, we will instruct CBP to liquidate these entries at the rate applicable to LMEL/LLPL.

The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review.

#### Cash-Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of certain welded carbon steel standard pipes and tubes from India entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(2)(C) of the Act: (1) the cash-deposit rate for companies under review will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash-deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation but the manufacturer is, the cash-deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate, the cash-deposit rate will be the all-others rate for this proceeding, 7.08 percent. See *Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India*, 51 FR 17384 (May 12, 1986). These deposit requirements, when imposed, shall remain in effect until further notice.

#### Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review

period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 7, 2010.

**Ronald K. Lorentzen,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 2010-14278 Filed 6-11-10; 8:45 am]

**BILLING CODE 3510-DS-S**

## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

[Docket No.: PTO-P-2010-0030]

#### Request for Comments on Proposed Changes to Restriction Practice in Patent Applications

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Request for comments.

**SUMMARY:** In situations in which two or more independent and distinct inventions are claimed in a single patent application, the United States Patent and Trademark Office (Office) is authorized by the patent laws and implementing regulations to require the applicant to restrict the application to one invention. The practice for requiring an applicant to restrict an application to one invention in such situations is known as restriction practice. The Office is considering changes to restriction practice to improve the quality and consistency of restriction requirements made by Office personnel.

*Comment Deadline Date:* Written comments must be received on or before August 13, 2010. No public hearing will be held.

**ADDRESSES:** Written comments should be sent by electronic mail message over the Internet addressed to [Restriction\\_Comments@uspto.gov](mailto:Restriction_Comments@uspto.gov). Comments may also be submitted by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, marked to the attention of Linda S. Therkorn. Although comments may be submitted by mail, the Office prefers to receive comments via the Internet.

The written comments will be available for public inspection at the

Office of the Commissioner for Patents, located in Madison East, Tenth Floor, 600 Dulany Street, Alexandria, Virginia, and will be available via the Office's Internet Web site (address: <http://www.uspto.gov>). Because comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:**

Linda S. Therkorn, Office of the Associate Commissioner for Patent Examination Policy, directly by telephone to (571) 272-7837, or by mail addressed to: Mail Stop Comments—Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**SUPPLEMENTARY INFORMATION:** The Office is authorized by the patent laws (35 U.S.C. 121) and regulations (37 CFR 1.141 *et seq.*) to require an applicant to restrict an application to one invention if two or more independent and distinct inventions are claimed in the application. Chapter 800 of the Manual of Patent Examining Procedure (MPEP) sets forth the Office's practices for reviewing applications for restriction purposes. The Office is considering revising restriction practice to improve the quality and consistency of restriction requirements.

The Office is seeking suggestions from the public regarding possible changes to restriction practice because this is a significant area of concern for the Office, applicants, and the public. Thus, the Office is soliciting comments from the public concerning several aspects of restriction practice. First, the Office is asking for comments on what should be included in an Office action that sets forth a restriction requirement. Second, because unwarranted restriction requirements can result in delays in prosecution, expenditure of excess claim fees, and/or the need to file multiple divisional applications, the Office is inviting suggestions from the public as to how to improve the process for traversing or requesting reconsideration of a restriction requirement to achieve more consistent, accurate, timely, and cost-effective review. Third, the Office is aware that restriction requirements between related product inventions or related process inventions have been problematic, and thus is inviting public comments on the changes under consideration to clarify what is necessary in order to restrict between such inventions. Fourth, the Office is also considering some changes with regard to restrictions involving claims with Markush groupings, and invites public comment on these

changes as well as any other suggestions regarding the treatment of Markush claims. Fifth, the Office is considering changes to rejoinder practice in an effort to simplify what claimed inventions would be eligible for rejoinder upon the determination that all elected claims are allowable, and invites public comments on these changes. Finally, the Office invites comments specifically pointing out other areas in which restriction practice could be improved.

The Office has previously recognized the need to consider changes to restriction practice. Pursuant to the Office's 21st Century Strategic Plan, the Office sought public comment on a number of issues to help guide the scope and content of a study of changes that would be needed to implement a Patent Cooperation Treaty (PCT) style "Unity of Invention" standard in the United States. *See Notice of Availability of and Request for Comments on Green Paper Concerning Restriction Practice*, 70 FR 32761 (June 6, 2005). The public comments suggested broadening the scope of the study beyond just a PCT-style Unity of Invention standard in an effort to determine the best practice for restriction. Based on the public comments, the Office identified four options for modifying restriction practice. The Office studied the ease of implementation and workload/pendency impacts of these four options in an effort to achieve an appropriate balance between the priorities of the USPTO user community and limited USPTO resources. However, after reviewing the business case analyses, the Office determined that none of the options would satisfactorily achieve the desired balance.

Thereafter, as part of its ongoing efforts to enhance patent quality and reduce pendency in accordance with the 21st Century Strategic Plan, the Office published a notice proposing to change certain rules of practice pertaining to claims that use Markush or other alternative language and requested public comment on the proposed changes to the rules of practice. *See Examination of Patent Applications That Include Claims Containing Alternative Language*, 72 FR 44992 (Aug. 10, 2007), 1322 *Off. Gaz. Pat. Office* 22 (Sept. 4, 2007). The Office is not issuing a final rule based upon the changes proposed in that previous rule making notice. The Office is instead publishing this notice to seek input from the public concerning restriction practice.

As discussed previously, the Office is considering changes to Office practice and policy with regard to restriction requirements. The Office is requesting

public input on restriction practice. The Office is not presently proposing any changes to the rules pertaining to restriction practice, and this notice is not a notice of proposed rule making.

1. *What should be included in an Office action that sets forth a restriction requirement?* The MPEP currently explains that two criteria must be met to require restriction between patentably distinct inventions, *i.e.*, the inventions must be independent or distinct as claimed, and there must be a serious burden on the examiner if restriction is not required. *See* MPEP § 803. The Office is considering clarifying the MPEP to indicate that a restriction requirement (including an election of species requirement) must always set forth the reasons why the inventions are independent or distinct and why there would be a serious burden in the absence of a restriction requirement.

The Office is considering changes to the burden requirement, an area fundamental to restriction practice. The rationales set forth in the current MPEP to support the burden prong are based on the prior art search (*i.e.*, the inventions have acquired a separate status in the art in view of their different classification; the inventions have acquired a separate status in the art due to their recognized divergent subject matter; and the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries)). *See* MPEP § 808.02. The Office is considering whether to revise the MPEP to indicate that there would be a serious burden if restriction is not required when the prior art applicable to one invention would not likely be applicable to another invention (*e.g.*, because of a different field of art or different effective filing date).

The Office is also considering whether to revise the MPEP to specify that "a serious burden on the examiner" encompasses search burden and/or examination burden. Typically, the burden prong has been viewed as referring to the burden imposed by searching for patentably distinct inventions. However, the determination of whether a claimed invention is allowable requires both a search of the prior art and an examination of the application to determine whether the claimed invention meets the statutory requirements for patentability. The burden imposed by the examination of patentably distinct inventions is, in many cases, as serious as the burden imposed by searching for such inventions. Therefore, the Office is considering explaining that in addition

to the rationales currently set forth in the MPEP, a serious burden in support of a restriction requirement may be based on the rationale that the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph. In this situation, a serious search burden and/or examination burden may exist where issues relevant to one invention are not relevant to the other invention.

The MPEP currently provides for election of species practice when an application includes a generic claim along with separate claims to different species that fall within the scope of that generic claim and that may be patentably distinct. *See* MPEP § 806.04. The Office is considering revising the MPEP to indicate that in setting forth the species from which an applicant is required to elect, the examiner should group together species that are not patentably distinct from each other, the examiner should require election of either a single species or a single grouping of patentably indistinct species, and the applicant should not be required to elect a specific species within a grouping of patentably indistinct species.

2. *What practice changes would result in more effective ways to seek higher level review of restriction requirements?* In various forums, members of the public have expressed overall dissatisfaction with the effectiveness of traversing or requesting reconsideration of requirements for restriction. Unwarranted restriction requirements can result in delays in prosecution, expenditure of excess claim fees, and/or the need to file multiple divisional applications to avoid dedication of unclaimed subject matter to the public. The Office invites suggestions from the public as to how to improve the traversal or request for reconsideration process within the framework of the current rules (*see* 37 CFR 1.143 and 1.144) to achieve more consistent, accurate, timely, and cost-effective review.

3. *How could the Office clarify requirements for restriction between related product inventions or related process inventions where the relationship is not specifically provided for in MPEP Chapter 800?* The Office is considering providing for a new section in the MPEP to address restriction between related product inventions or related process inventions not otherwise provided for in MPEP §§ 806 through 806.05(j). *See, e.g.,* MPEP § 806.04 et seq. for restricting between inventions in a genus/species relationship; MPEP § 806.05(c) for an explanation of the requirements to restrict between

inventions in a combination/subcombination relationship; MPEP § 806.05(d) for restricting between subcombinations disclosed as usable together; and MPEP § 806.05(j) for restricting between an intermediate and a final product. Specifically, the Office is considering explaining that to support a requirement for restriction between two or more related product inventions, or between two or more related process inventions, that are not otherwise provided for in MPEP §§ 806 through 806.05(j), there must be two-way distinctness (*see* MPEP § 802.01) and a serious burden if restriction were not required. The Office is considering explaining that for such related product inventions or such related process inventions, the inventions are distinct if: (1) The inventions **as claimed** have mutually exclusive characteristics (*see* MPEP §§ 806 through 806.05(f)); (2) the inventions **as claimed** are not obvious variants over each other; and (3) each invention **as claimed** can be made by, or used in, a materially different process or product. In an effort to reduce the number of improper requirements for restriction between related product inventions or related process inventions, the Office is considering explaining that where claims of an application define the same essential characteristics of a single invention, *e.g.,* the claims vary from each other only in breadth or scope (ranging from broad to detailed), the examiner should not require restriction between such claims.

4. *How could the Office modify Markush practice?* The Office is considering whether to revise Markush practice in three particular ways. First, if the examiner determines that the elected species is allowable, the Office is considering specifying that the examination of the Markush-type claim will be extended to the extent necessary to determine the patentability of the claim, *i.e.,* to determine whether any **nonelected species** is unpatentable for any reason (35 U.S.C. 101, 102, 103, or 112, or nonstatutory double patenting). If a nonelected species is determined to be unpatentable, the Markush-type claim would be rejected, and the search and examination would not be extended to cover all nonelected species.

Next, the Office is considering revising the treatment of amended Markush-type claims to clarify that whether an Office action may be made final is determined by whether the conditions in MPEP § 706.07 for making a second or subsequent Office action final are met and is not dependent upon whether the examiner previously required a provisional election of species.

Lastly, the Office is considering situations where restriction may be proper between a subcombination and a combination when a subcombination sets forth a Markush grouping of alternatives. In particular, the Office is referring to a subcombination that (1) encompasses two or more subcombination embodiments within its scope, and (2) lists those embodiments using Markush-type claim language, *i.e.,* lists the embodiments as a group of alternatives from which a subcombination embodiment is selected. For example, the Office is considering whether restriction would be proper between a subcombination claim to an individual DNA molecule selected from a list of alternative embodiments and a combination claim to an array comprising a plurality of DNA molecules wherein one or more of the DNA molecules are selected from the list of alternative embodiments set forth in the subcombination claim. In such a situation, the combination claim does not require all the elements of any particular claimed subcombination to be present in the claimed array.

Apart from these specific considerations, the Office invites suggestions from the public regarding changes to the practice of requiring election/restriction of Markush claims in a manner that balances the interests of the Office and those of the public in the context of the current statutory and regulatory framework.

5. *How could the Office improve rejoinder practice?* The Office is considering changes to rejoinder practice as part of an effort to institute more uniform treatment of claims directed to nonelected subject matter upon the determination that all claims to the elected invention are allowable. The Office is considering whether to define “rejoinder” as the practice of withdrawing a restriction requirement as between some or all groupings of claims and reinstating certain claims previously withdrawn from consideration that occurs when the following conditions are met: (1) All claims to the elected invention are allowable; and (2) it is readily apparent that all claims to one or more nonelected inventions are allowable for the same reasons that the elected claims are allowable. Claims that meet the second condition for rejoinder may include, for example, those that (1) properly depend from an allowable elected claim; (2) include all of the limitations of an allowable elected claim; or (3) require no further search and/or examination. Claims that may not be eligible for rejoinder would include, for example, those that require

additional consideration of the prior art or raise utility, enablement, or written description issues not considered during examination of the allowable elected claims.

Separately, the Office is also considering instructing examiners that when all claims directed to an elected invention are allowable, nonelected claims must be considered for rejoinder and withdrawal of the restriction requirement. In making this decision, examiners must reevaluate both aspects of the restriction requirement, *i.e.*, whether the nonelected invention(s) as now claimed are independent or distinct from the claim(s) to the allowable elected invention and whether there would be a serious burden if the nonelected inventions were rejoined.

6. *What other areas of restriction practice can the Office improve and how?* While the Office has set forth particular restriction practice issues for which comments are specifically being requested, the Office is in this request for comments inviting comments on any area in which restriction practice could be improved.

Dated: May 17, 2010.

**David J. Kappos,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2010-14136 Filed 6-11-10; 8:45 am]

**BILLING CODE 3510-16-P**

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## CONSUMER PRODUCT SAFETY COMMISSION

### Sunshine Act Meetings

**TIME AND DATE:** Wednesday, June 16, 2010; 10 a.m.–12 Noon.

**PLACE:** Hearing Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Closed to the Public.

#### MATTERS TO BE CONSIDERED:

##### Compliance Status Report

The Commission staff will brief the Commission on the status of compliance matters. For a recorded message containing the latest agenda information, call (301) 504-7948.

#### CONTACT PERSON FOR MORE INFORMATION:

Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814 (301) 504-7923.

Dated: June 8, 2010.

**Todd A. Stevenson,**

*Secretary.*

[FR Doc. 2010-14321 Filed 6-10-10; 11:15 am]

**BILLING CODE 6355-01-P**

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Science Board; Correction

**AGENCY:** Department of Defense, DoD.

**ACTION:** Notice of advisory committee meeting; correction.

**SUMMARY:** On June 8, 2010, DoD published a notice (75 FR 32416) announcing a meeting of the Defense Science Board Task Force. In one instance the notice contained irrelevant text. This notice corrects that error.

**FOR FURTHER INFORMATION CONTACT:** LTC Karen Walters at 703-571-0082.

**SUPPLEMENTARY INFORMATION:** On June 8, 2010, DoD published a notice announcing a meeting of the Defense Science Board Task Force on the Survivability of DoD Systems and Assets to Electromagnetic Pulse (EMP) and other Nuclear Weapons Effects. The meeting will be held July 15 and 16, 2010, at Fort Belvoir, VA. Subsequent to the publication of that notice, DoD discovered that the text contained one instance of irrelevant text. This notice corrects that information.

#### Correction

In the notice (FR Doc. 2010-13770) published on June 8, 2010 (75 FR 32416), make the following correction. On page 32416, in the second column, correct the first paragraph under **SUPPLEMENTARY INFORMATION** by deleting the following sentence: "At these meetings, the Defense Science Board Task Force will act as an independent sounding board to the Joint IED organization by providing feedback at quarterly intervals; and develop strategic and operational plans, examining the goals, process and substance of the plans."

Dated: June 8, 2010.

**Mitchell S. Bryman,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2010-14140 Filed 6-11-10; 8:45 am]

**BILLING CODE 5001-06-P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Federal Advisory Committee; Department of Defense Wage Committee

**AGENCY:** Department of Defense (DoD).

**ACTION:** Notice of closed meeting.

**SUMMARY:** Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that the Department of Defense Wage Committee will meet on July 13, 2010, in Rosslyn, Virginia. The meeting is closed to the public.

**DATES:** The meeting will be held on Tuesday, July 13, 2010, at 10 a.m.

**ADDRESSES:** The meeting will be held at 1400 Key Boulevard, Level A, Room A101, Rosslyn, VA 22209.

**FOR FURTHER INFORMATION CONTACT:** Additional information concerning the meeting may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301-4000.

**SUPPLEMENTARY INFORMATION:** Under the provisions of section 10(d) of Public Law 92-463, the Department of Defense has determined that the meeting meets the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman (*see FOR FURTHER INFORMATION CONTACT*) concerning matters believed to be deserving of the Committee's attention.

Dated: June 9, 2010.

**Mitchell S. Bryman,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2010-14197 Filed 6-11-10; 8:45 am]

**BILLING CODE 5001-06-P**

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## DEPARTMENT OF DEFENSE

### Department of the Air Force

#### Local Redevelopment Authority and Available Surplus Buildings and Land at Air Force Research Labs (AFRL) Mesa, Located in Maricopa County, AZ

**SUMMARY:** This notice provides information regarding the surplus property at AFRL Mesa in Maricopa County, Arizona and information about