§ 1.294 Examination of request for publication of a statutory invention registration and patent application to which the request is directed.

(a) Any request for a statutory invention registration will be examined to determine if the requirements of §1.293 have been met. The application to which the request is directed will be examined to determine (1) if the subject matter of the application is appropriate for publication, (2) if the requirements for publication are met, and (3) if the requirements of 35 U.S.C. 112 and §1.293 of this part are met.

(b) Applicant will be notified of the results of the examination set forth in paragraph (a) of this section. If the requirements of §1.293 and this section are not met by the request filed, the notification to applicant will set a period of time within which to comply with the requirements in order to avoid abandonment of the application. If the application does not meet the requirements of 35 U.S.C. 112, the notification to applicant will include a rejection under the appropriate provisions of 35 U.S.C. 112. The periods for reply established pursuant to this section are subject to the extension of time provisions of §1.136. After reply by the applicant, the application will again be considered for publication of a statutory invention registration. If the requirements of §1.293 and this section are not timely met, the refusal to publish will be made final. If the requirements of 35 U.S.C. 112 are not met, the rejection pursuant to 35 U.S.C. 112 will be made final.

(c) If the examination pursuant to this section results in approval of the request for a statutory invention registration the applicant will be notified of the intent to publish a statutory invention registration.

§ 1.295 Review of decision finally refusing to publish a statutory invention registration.

(a) Any requester who is dissatisfied with the final refusal to publish a statutory invention registration for reasons other than compliance with 35
§ 1.296

U.S.C. 112 may obtain review of the refusal to publish the statutory invention registration by filing a petition to the Director accompanied by the fee set forth in §1.17(g) within one month or such other time as is set in the decision refusing publication. Any such petition should comply with the requirements of §1.181(b). The petition may include a request that the petition fee be refunded if the final refusal to publish a statutory invention registration for reasons other than compliance with 35 U.S.C. 112 is determined to result from an error by the Patent and Trademark Office.

(b) Any requester who is dissatisfied with a decision finally rejecting claims pursuant to 35 U.S.C. 112 may obtain review of the decision by filing an appeal to the Board of Patent Appeals and Interferences pursuant to §41.31 of this title. If the decision rejecting claims pursuant to 35 U.S.C. 112 is reversed, the request for a statutory invention registration will be approved and the registration published if all of the other provisions of §1.293 and this section are met.

(Approved by the Office of Management and Budget under control number 0651–0018)

[50 FR 9383, Mar. 7, 1985, as amended at 50 FR 31826, Aug. 6, 1985]

§ 1.297 Publication of statutory invention registration.

(a) If the request for a statutory invention registration is approved the statutory invention registration will be published. The statutory invention registration will be mailed to the requester at the correspondence address as provided for in §1.33(a). A notice of the publication of each statutory invention registration will be published in the Official Gazette.

(b) Each statutory invention registration published will include a statement relating to the attributes of a statutory invention registration. The statement will read as follows:

A statutory invention registration is not a patent. It has the defensive attributes of a patent but does not have the enforceable attributes of a patent. No article or advertisement or the like may use the term patent, or any term suggestive of a patent, when referring to a statutory invention registration. For more specific information on the rights associated with a statutory invention registration see 35 U.S.C. 157.

[50 FR 9383, Mar. 7, 1985, as amended at 50 FR 31826, Aug. 6, 1985]

REVIEW OF PATENT AND TRADEMARK OFFICE DECISIONS BY COURT

§ 1.301 Appeal to U.S. Court of Appeals for the Federal Circuit.

Any applicant, or any owner of a patent involved in any ex parte reexamination proceeding filed under §1.510, dissatisfied with the decision of the Board of Patent Appeals and Interferences, and any party to an interference dissatisfied with the decision of the Board of Patent Appeals and Interferences, may appeal to the U.S. Court of Appeals for the Federal Circuit. The appellant must take the following steps in such an appeal: In the U. S. Patent and Trademark Office, file a written notice of appeal directed to the Director (see §§1.302 and 1.304); and in the Court, file a copy of the notice of appeal and pay the fee for appeal as provided by the rules of the Court. For appeals by patent owners and third party requesters in inter partes reexamination proceedings filed under §1.913, §1.983 is controlling.

[68 FR 71006, Dec. 22, 2003]