§ 1.130  
(b)(1) In an application, other than for reissue or a design patent, that has been pending for at least three years as of June 8, 1995; taking into account any reference made in the application to any earlier filed application under 35 U.S.C. 120, 121, and 365(c), no requirement for restriction or for the filing of divisional applications shall be made or maintained in the application after June 8, 1995, except where:
   (i) The requirement was first made in the application or any earlier filed application under 35 U.S.C. 120, 121 and 365(c) prior to April 8, 1995;
   (ii) The examiner has not made a requirement for restriction in the present or parent application prior to April 8, 1995, due to actions by the applicant; or
   (iii) The required fee for examination of each additional invention was not paid.

(2) If the application contains more than one independent and distinct invention and a requirement for restriction or for the filing of divisional applications cannot be made or maintained pursuant to this paragraph, applicant will be so notified and given a time period to:
   (i) Elect the invention or inventions to be searched and examined, if no election has been made prior to the notice, and pay the fee set forth in §1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects;
   (ii) Confirm an election made prior to the notice and pay the fee set forth in §1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects;
   (iii) File a petition under this section traversing the requirement. If the required petition is filed in a timely manner, the original time period for electing and paying the fee set forth in §1.17(s) will be deferred and any decision on the petition affirming or modifying the requirement will set a new time period to elect the invention or inventions to be searched and examined and to pay the fee set forth in §1.17(s) for each independent and distinct invention claimed in the application in excess of one which applicant elects.
   (3) The additional inventions for which the required fee has not been paid will be withdrawn from consideration under §1.142(b). An applicant who desires examination of an invention so withdrawn from consideration can file a divisional application under 35 U.S.C. 121.

(c) The provisions of this section shall not be applicable to any application filed after June 8, 1995.

§ 1.131  
Affidavit or declaration of prior invention.

(a) When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of