may be filed at any point up to pay-
ment of the issue fee if it is accom-
panied by a statement that the sub-
stitute specification includes no new 

(c) A substitute specification sub-
mitted under this section must be sub-
mitted with markings showing all the 
changes relative to the immediate 
prior version of the specification of 
record. The text of any added subject 
matter must be shown by underlining 
the added text. The text of any deleted 
matter must be shown by strike-
through except that double brackets 
placed before and after the deleted 
characters may be used to show dele-
tion of five or fewer consecutive char-
acters. The text of any deleted subject 
matter must be shown by being placed 
within double brackets if strike-
through cannot be easily perceived. An 
accompanying clean version (without 
markings) must also be supplied. Num-
bering the paragraphs of the specifica-
tion of record is not considered a 
change that must be shown pursuant to 
this paragraph.

(d) A substitute specification under 
this section is not permitted in a re-
issue application or in a reexamination 
proceeding.

§ 1.127 Petition from refusal to admit 
amendment.

From the refusal of the primary ex-
aminer to admit an amendment, in 
whole or in part, a petition will lie to 
the Director under §1.181.

TRANSITIONAL PROVISIONS

§ 1.129 Transitional procedures for 
limited examination after final re-
jection and restriction practice.

(a) An applicant in an application, 
other than for reissue or a design pat-
ent, that has been pending for at least 
two years as of June 8, 1995, taking into 
account any reference made in such ap-
plication to any earlier filed application 
under 35 U.S.C. 120, 121 and 365(c), 
is entitled to have a first submission 
entered and considered on the merits 
after final rejection under the fol-
lowing circumstances: The Office will 
consider such a submission, if the first 
submission and the fee set forth in 
§1.17(r) are filed prior to the filing of 
an appeal brief and prior to abandon-
ment of the application. The finality of 
the final rejection is automatically 
withdrawn upon the timely filing of 
the submission and payment of the fee 
set forth in §1.17(r). If a subsequent 
final rejection is made in the applica-
tion, applicant is entitled to have a 
second submission entered and consid-
ered on the merits after the subsequent 
final rejection under the following cir-
cumstances: The Office will consider 
such a submission, if the second sub-
mission and a second fee set forth in 
§1.17(r) are filed prior to the filing of 
an appeal brief and prior to abandon-
ment of the application. The finality of 
the subsequent final rejection is auto-
matically withdrawn upon the timely 
filling of the submission and payment of 
the second fee set forth in §1.17(r). Any 
submission filed after a final rejection 
made in an application subsequent to 
the fee set forth in §1.17(r) having been 
twice paid will be treated as set forth 
in §1.116. A submission as used in this 
paragraph includes, but is not limited 
to, an information disclosure state-
ment, an amendment to the written de-
scription, claims or drawings and a new 
substantive argument or new evidence 
in support of patentability.