

## § 1.219

## 37 CFR Ch. I (7–1–14 Edition)

any part or description of the invention that is not also contained in any of the corresponding applications filed in a foreign country. The Office will publish the application as provided in § 1.215(a) unless the applicant files a redacted copy of the application in compliance with this section within sixteen months after the earliest filing date for which a benefit is sought under title 35, United States Code.

(b) The redacted copy of the application must be submitted in compliance with the Office electronic filing system requirements. The title of the invention in the redacted copy of the application must correspond to the title of the application at the time the redacted copy of the application is submitted to the Office. If the redacted copy of the application does not comply with the Office electronic filing system requirements, the Office will publish the application as provided in § 1.215(a).

(c) The applicant must also concurrently submit in paper (§ 1.52(a)) to be filed in the application:

(1) A certified copy of each foreign-filed application that corresponds to the application for which a redacted copy is submitted;

(2) A translation of each such foreign-filed application that is in a language other than English, and a statement that the translation is accurate;

(3) A marked-up copy of the application showing the redactions in brackets; and

(4) A certification that the redacted copy of the application eliminates only the part or description of the invention that is not contained in any application filed in a foreign country, directly or through a multilateral international agreement, that corresponds to the application filed in the Office.

(d) The Office will provide a copy of the complete file wrapper and contents of an application for which a redacted copy was submitted under this section to any person upon written request pursuant to § 1.14(c)(2), unless applicant complies with the requirements of paragraphs (d)(1), (d)(2), and (d)(3) of this section.

(1) Applicant must accompany the submission required by paragraph (c) of this section with the following:

(i) A copy of any Office correspondence previously received by applicant including any desired redactions, and a second copy of all Office correspondence previously received by applicant showing the redacted material in brackets; and

(ii) A copy of each submission previously filed by the applicant including any desired redactions, and a second copy of each submission previously filed by the applicant showing the redacted material in brackets.

(2) In addition to providing the submission required by paragraphs (c) and (d)(1) of this section, applicant must:

(i) Within one month of the date of mailing of any correspondence from the Office, file a copy of such Office correspondence including any desired redactions, and a second copy of such Office correspondence showing the redacted material in brackets; and

(ii) With each submission by the applicant, include a copy of such submission including any desired redactions, and a second copy of such submission showing the redacted material in brackets.

(3) Each submission under paragraph (d)(1) or (d)(2) of this paragraph must also be accompanied by the processing fee set forth in § 1.17(i) and a certification that the redactions are limited to the elimination of material that is relevant only to the part or description of the invention that was not contained in the redacted copy of the application submitted for publication.

(e) The provisions of § 1.8 do not apply to the time periods set forth in this section.

### § 1.219 Early publication.

Applications that will be published under § 1.211 may be published earlier than as set forth in § 1.211(a) at the request of the applicant. Any request for early publication must be accompanied by the publication fee set forth in § 1.18(d). If the applicant does not submit a copy of the application in compliance with the Office electronic filing system requirements pursuant to § 1.215(c), the Office will publish the application as provided in § 1.215(a). No consideration will be given to requests for publication on a certain date, and

such requests will be treated as a request for publication as soon as possible.

**§ 1.221 Voluntary publication or republication of patent application publication.**

(a) Any request for publication of an application filed before, but pending on, November 29, 2000, and any request for republication of an application previously published under § 1.211, must include a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i). If the request does not comply with the requirements of this paragraph or the copy of the application does not comply with the Office electronic filing system requirements, the Office will not publish the application and will refund the publication fee.

(b) The Office will grant a request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section only when the Office makes a material mistake which is apparent from Office records. Any request for a corrected or revised patent application publication other than as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable.

MISCELLANEOUS PROVISIONS

**§ 1.248 Service of papers; manner of service; proof of service in cases other than interferences and trials.**

(a) Service of papers must be on the attorney or agent of the party if there be such or on the party if there is no attorney or agent, and may be made in any of the following ways:

(1) By delivering a copy of the paper to the person served;

(2) By leaving a copy at the usual place of business of the person served with someone in his employment;

(3) When the person served has no usual place of business, by leaving a copy at the person's residence, with some person of suitable age and discretion who resides there;

(4) Transmission by first class mail. When service is by mail the date of mailing will be regarded as the date of service;

(5) Whenever it shall be satisfactorily shown to the Director that none of the above modes of obtaining or serving the paper is practicable, service may be by notice published in the *Official Gazette*.

(b) Papers filed in the Patent and Trademark Office which are required to be served shall contain proof of service. Proof of service may appear on or be affixed to papers filed. Proof of service shall include the date and manner of service. In the case of personal service, proof of service shall also include the name of any person served, certified by the person who made service. Proof of service may be made by:

(1) An acknowledgement of service by or on behalf of the person served or

(2) A statement signed by the attorney or agent containing the information required by this section.

(c) See § 41.106(e) or § 42.6(e) of this title for service of papers in contested cases or trials before the Patent Trial and Appeal Board.

[46 FR 29184, May 29, 1981, as amended at 49 FR 48454, Dec. 12, 1984; 69 FR 50000, Aug. 12, 2004; 69 FR 58260, Sept. 30, 2004; 77 FR 46626, Aug. 6, 2012]

**§ 1.251 Unlocatable file.**

(a) In the event that the Office cannot locate the file of an application, patent, or other patent-related proceeding after a reasonable search, the Office will notify the applicant or patentee and set a time period within which the applicant or patentee must comply with the notice in accordance with one of paragraphs (a)(1), (a)(2), or (a)(3) of this section.

(1) Applicant or patentee may comply with a notice under this section by providing:

(i) A copy of the applicant's or patentee's record (if any) of all of the correspondence between the Office and the applicant or patentee for such application, patent, or other proceeding (except for U.S. patent documents);

(ii) A list of such correspondence; and

(iii) A statement that the copy is a complete and accurate copy of the applicant's or patentee's record of all of