

**RULES OF PRACTICE IN  
THE UNITED STATES  
PATENT OFFICE IN  
PATENT CASES. JUNE 1960**

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Department of Commerce

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**U. S. DEPARTMENT OF COMMERCE**

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U.S. DEPARTMENT OF COMMERCE

Frederick H. Mueller, *Secretary*

PATENT OFFICE

Robert C. Watson, *Commissioner*



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# Introduction

## THE UNITED STATES PATENT OFFICE

A. **ESTABLISHMENT.** The Patent Office was established to administer the patent laws enacted by Congress in accordance with article I, section 8, of the Constitution. The first of these laws was enacted April 10, 1790 (1 Stat. 109), but the Patent Office as a distinct bureau, in the Department of State, dates from the year 1802, when an official who became known as the Superintendent of Patents was placed in charge. The general revision of the patent laws enacted July 4, 1836 (5 Stat. 117), reorganized the Patent Office and designated the official in charge as Commissioner of Patents. Another general revision of the patent laws was made in 1870, and since that date numerous acts of Congress relating to patents were passed, until they were revised and codified, effective January 1, 1953, as title 35 of the United States Code. The Patent Office also administers the Federal trademark laws (title 15, secs. 1051 to 1127 of the United States Code). The Patent Office was transferred from the Department of the Interior, in which Department it had been since 1849, to the Department of Commerce by Executive order on April 1, 1925, in accordance with the authority contained in the act of February 14, 1903 (32 Stat. 830). The Patent Office is located in Washington, D.C.

B. **FUNCTIONS.** The chief functions of the Patent Office are to administer the patent laws as they relate to the granting of letters patent for inventions, and to perform other duties relating to patents. It examines applications for patents to ascertain if the applicants are entitled to patents under the law, and grants the patents when they are so entitled; it publishes issued patents and various publications concerning patents and patent laws, records assignments of patents, maintains a search room for the use of the public to examine issued patents and records, supplies copies of records and other papers, supplies information concerning patents, and the like. Analogous and similar functions are performed with respect to the registration of trademarks.

C. **GENERAL ORGANIZATION.** The Patent Office is organized in (a) the Office of the Commissioner of Patents (see par. D), (b) the Office of the Solicitor (see par. E), (c) The Board of Appeals (see par. F), (d) the Board of Patent Interferences (see par. G), (e) the Office of Research and Development (see par. H), (f) the Patent Examining Operation (see pars. I, J, K), (g) the Office of Information Services (see par. L), and (h) the Office of Administration (see

par. M); with respect to trademarks there is (i) the Trademark Examining Operation, and (j) the Trademark Trial and Appeal Board. Various offices and divisions are described in greater detail in the following paragraphs but administrative or internal matters are omitted or mentioned only briefly.

**D. OFFICE OF COMMISSIONER OF PATENTS.** This office comprises the Commissioner of Patents, a First Assistant Commissioner of Patents, and two Assistant Commissioners of Patents. As head of the Patent Office, the Commissioner of Patents superintends or performs all duties respecting the granting and issuing of patents and the registration of trademarks; exercises general supervision over the entire work of the Patent Office; prescribes the rules, subject to the approval of the Secretary of Commerce, for the conduct of proceedings in the Patent Office and for recognition of attorneys and agents; decides various questions brought before him by petition as prescribed by the rules, and performs other duties necessary and required for the administration of the Patent Office and the performance of its functions. The Commissioner also prescribes rules governing the registration of trademarks and hears appeals in trademark cases. The Assistant Commissioners perform such of the foregoing duties pertaining to the Office of Commissioner as may be assigned by the Commissioner, with the same authority as the Commissioner. One of them serves as Acting Commissioner in the temporary absence of the Commissioner.

**E. SOLICITOR AND LAW EXAMINERS.** The Office of the Solicitor comprises the Solicitor, Deputy Solicitor, and law examiners who constitute the legal staff of the Commissioner. They have charge of litigation in which the Patent Office is a party, acting as counsel in appeals to the United States Court of Customs and Patent Appeals and in suits against the Commissioner; investigate legal and legislative matters for the Commissioner; develop and present to the Commissioner evidence in proceedings for disbarment and suspension of attorneys and agents from practice before the Patent Office; edit the legal portion of the Official Gazette; and perform such other duties in matters coming before the Commissioner as he may assign.

**F. BOARD OF APPEALS.** The Commissioner, Assistant Commissioners, and not more than fifteen examiners-in-chief constitute a Board of Appeals whose duty is to hear and decide appeals from adverse decisions of examiners upon applications for patents. Each appeal is heard and considered by at least three members of the Board of Appeals. Their decisions are reviewable by the courts.

**G. THE BOARD OF PATENT INTERFERENCES.** The Board of Patent Interferences consists of such examiners of patent interferences as may be appointed by the Commissioner, who designates one of them to act as Chairman. Three members constitute a Board of Patent Interferences in determining each question of priority. Intermediate



questions and matters of procedure may be determined by a single examiner of interference. The decisions of the Board of Patent Interferences on the question of priority are reviewable by the courts.

**H. THE OFFICE OF RESEARCH AND DEVELOPMENT.** The Director of the Office of Research and Development directs and coordinates a research program concerned with developing a mechanized system for searching recorded knowledge and retrieving information for determining the patentable novelty of claimed inventions.

**I. DIRECTOR AND ASSOCIATE DIRECTORS OF THE PATENT EXAMINING OPERATION.** The Director aids the Commissioner in administering the Patent Office with respect to the examination of patent applications and classification of technical subject matter; in coordinating formal procedures and practices among the several examining groups; in formulating and executing basic policies relating to those groups; in developing and maintaining competence in professional and technical aspects of patent examining and classification work; in rendering decisions in such matters referred by the Commissioner, within statutory limitations.

Each Patent Examining Group comprises an Associate Director, as its head, and a number of patent examining divisions distributed, for administrative and other purposes, in accordance with the field of art assigned. Each Associate Director coordinates operations among his various examining divisions; effects general uniformity in the application of Office rules, policies, and directives; develops the productive capacity of examining divisions and insures proficiency of operations; and acts on such matters of technical nature as are referred by superiors.

**J. PATENT EXAMINING DIVISIONS.** The examination of applications for patent is the largest and most important function of the Patent Office. The work is divided among the various patent examining divisions of which there are approximately 70. Each division is headed by a primary examiner and staffed by a number of examiners, one of whom is designated to act as head of the division in the absence of the primary examiner. The examiners perform the work of examining applications for patents and determine whether patents can be granted. An appeal can be taken to the Board of Appeals from their decisions refusing patent and a review by the Commissioner of Patents may be had on other matters by petition. The examiners also determine when an interference exists between pending applications, or a pending application and a patent, institute interference proceedings in such cases and hear and decide certain preliminary questions raised by the contestants.

**K. THE CLASSIFICATION GROUP.** Comprising an Associate Director, as its head, and several classification divisions, this group develops and maintains a system for the classification of patents in the various

arts to provide a basic frame of reference for the guidance of patent examiners and the general public in making searches for novelty or infringement. The group also insures the effective use of this system in the classification of issued patents.

**L. THE OFFICE OF INFORMATION SERVICES.** The Director of the Office of Information Services serves as adviser to and represents the Commissioner on public information matters, and conducts information programs fostering public knowledge of and benefit from the American patent system and the functions and services of the Patent Office.

**M. THE OFFICE OF ADMINISTRATION.** The Director of the Office of Administration serves as the principal assistant and adviser to the Commissioner on all administrative matters. He is responsible for all administrative functions conducted in support of the substantive operations of the Patent Office, which includes the following service and administrative divisions:

- (a) Budget and Finance Division:
  - (1) Budget Branch
  - (2) Finance Branch (see par. N)
- (b) Organization and Methods Division
- (c) Personnel Division
- (d) General Services Division:
  - (1) Application Branch (see par. O)
  - (2) Assignment Branch (see par. P)
  - (3) Correspondence and Mail Branch (see par. Q)
  - (4) Docket Branch (see par. R)
  - (5) Drafting Branch (see par. S)
  - (6) Issue and Gazette Branch (see par. T)
  - (7) Machine Tabulating Branch
  - (8) Manuscript and Lithographic Branch (see par. U)
  - (9) Office Services Branch
  - (10) Patent Copy Sales Branch (see par. V)
  - (11) Scientific Library (see par. W)

**N. FINANCE BRANCH.** The Finance Branch is headed by a finance officer who receives and accounts for all fees paid into the Patent Office and deposits them in the United States Treasury. Coupons redeemable for copies of patents and other papers are sold, and deposit accounts for the payment of certain charges are maintained. This Branch also has charge of refunding money paid by mistake or in excess.

**O. APPLICATION BRANCH.** The Application Branch receives, records and acknowledges all applications for patents when they are filed. Upon receipt of an application, the papers are scrutinized to see if the application is complete in all its parts and complies with certain formal requirements. If the papers are not sufficiently com-

plete to be accepted as an application for patent, the applicant is notified of the deficiencies and the papers are held for completion. If it is complete, the application (the papers being placed in a jacket or file) is given a serial number and filing date, indexed, and (after the drawing has been inspected by the Drafting Branch) sent to the particular examining division having charge of the subject matter of the application.

**P. ASSIGNMENT BRANCH.** The Assignment Branch receives and records assignments transferring property rights in patents and trademarks, and applications for the same. After the assignments are recorded, they are returned to the senders. The Branch also makes searches of the titles of patents and trademarks and furnishes abstracts of titles. Digests and indexes are made of all assignments in order to facilitate title searches. These are available to the public. The Assignment Branch also maintains a Register of Government Interests in Patents for the use of the Government but part of this register is available to public inspection.

**Q. CORRESPONDENCE AND MAIL BRANCH.** The Correspondence and Mail Branch opens and distributes all official mail and sees to it that all remittances are deposited with the finance officer. It has custody of the general correspondence not relating to particular applications for patents. Some routine inquiries are answered by circular letter sent out by this branch.

**R. DOCKET BRANCH.** The Docket Branch has custody of patent dockets for the Commissioner, the files in interference cases except when they are in use by the examiners, and papers in cases appealed to the Court of Customs and Patent Appeals. Papers filed in such cases go to the docket clerk who enters them and is responsible for their custody and distribution. This Branch also handles correspondence relating to the revocation of powers of attorney or authorization of agents.

**S. DRAFTING BRANCH.** The Drafting Branch inspects the drawings accompanying applications for patents and for registration of trademarks to insure compliance with the formal rules relating to drawings and minimum standards of execution. It also prepares new drawings from sketches or models when ordered by an applicant, and makes corrections in drawings on file.

**T. ISSUE AND GAZETTE BRANCH.** This Branch has the duty of attending to the details of issuing the patents after the applications have been allowed by the examiner. It prepares the specifications for printing and supervises the printing which is done at the Government Printing Office. It also prepares the drawings for photolithographing and supervises this work. It takes care of the numbering, dating, indexing, and recording of patents when granted, and prepares and mails the formal grants. The preparation for printing of the Official Gazette of the United States Patent Office with its indexes,