

records, or photocopies thereof, must accompany and form part of the affidavit or declaration of their absence satisfactorily explained.

[53 FR 23734, June 23, 1988, as amended at 60 FR 21044, May 1, 1995; 61 FR 42806, Aug. 19, 1996]

§ 1.132 Affidavits or declarations traversing grounds of rejection.

When any claim of an application or a patent under reexamination is rejected on reference to a U.S. patent which substantially shows or describes but does not claim the same patentable invention, as defined in § 1.601(n), on reference to a foreign patent, on reference to a printed publication, or on reference to facts within the personal knowledge of an employee of the Office, or when rejected upon a mode or capability of operation attributed to a reference, or because the alleged invention is held to be inoperative, lacking in utility, frivolous, or injurious to public health or morals, affidavits or declarations traversing these references or objections may be received.

[61 FR 42806, Aug. 19, 1996]

INTERVIEWS

§ 1.133 Interviews.

(a) Interviews with examiners concerning applications and other matters pending before the Office must be had in the examiners' rooms at such times, within office hours, as the respective examiners may designate. Interviews will not be permitted at any other time or place without the authority of the Commissioner. Interviews for the discussion of the patentability of pending applications will not be had before the first official action thereon. Interviews should be arranged for in advance.

(b) In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office actions as specified in §§ 1.111 and 1.135.

(35 U.S.C. 132)

[24 FR 10332, Dec. 22, 1959, as amended at 62 FR 53194, Oct. 10, 1997]

TIME FOR REPLY BY APPLICANT;
ABANDONMENT OF APPLICATION

AUTHORITY: Secs. 1.135 to 1.138 also issued under 35 U.S.C. 133.

§ 1.134 Time period for reply to an Office action.

An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

[62 FR 53194, Oct. 10, 1997]

§ 1.135 Abandonment for failure to reply within time period.

(a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.

(b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.

(c) When reply by the applicant is a *bona fide* attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

[62 FR 53194, Oct. 10, 1997]

§ 1.136 Extensions of time.

(a)(1) If an applicant is required to reply within a nonstatutory or shortened statutory time period, applicant may extend the time period for reply up to the earlier of the expiration of any maximum period set by statute or five months after the time period set for reply, if a petition for an extension