

the necessity for response to Office actions as specified in § 1.111.

§ 1.565 Concurrent office proceedings.

(a) In any reexamination proceeding before the Office, the patent owner shall call the attention of the Office to any prior or concurrent proceedings in which the patent is or was involved such as interferences, reissue, reexaminations, or litigation and the results of such proceedings.

(b) If a patent in the process of reexamination is or becomes involved in litigation or a reissue application for the patent is filed or pending, the Commissioner shall determine whether or not to stay the reexamination or reissue proceeding.

(c) If reexamination is ordered while a prior reexamination proceeding is pending, the reexamination proceedings will be consolidated and result in the issuance of a single certificate under § 1.570.

(d) If a reissue application and a reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to stay one of the two proceedings. Where merger of a reissue application and a reexamination proceeding is ordered, the merged examination will be conducted in accordance with §§ 1.171 through 1.179 and the patent owner will be required to place and maintain the same claims in the reissue application and the reexamination proceeding during the pendency of the merged proceeding. The examiner's actions and any responses by the patent owner in a merged proceeding will apply to both the reissue application and the reexamination proceeding and be physically entered into both files. Any reexamination proceeding merged with a reissue application shall be terminated by the grant of the reissued patent.

(e) If a patent in the process of reexamination is or becomes involved in an interference, the Commissioner may stay reexamination or the interference. The Commissioner will not consider a request to stay an interference unless a motion (§ 1.635) to stay the interference has been presented to, and denied by, an examiner-in-chief and the request is

filed within ten (10) days of a decision by an examiner-in-chief denying the motion for a stay or such other time as the examiner-in-chief may set.

[46 FR 29185, May 29, 1981, as amended at 47 FR 21753, May 19, 1982; 49 FR 48455, Dec. 12, 1984; 50 FR 23123, May 31, 1985]

CERTIFICATE

§ 1.570 Issuance of reexamination certificate after reexamination proceedings.

(a) Upon the conclusion of reexamination proceedings, the Commissioner will issue a certificate in accordance with 35 U.S.C. 307 setting forth the results of the reexamination proceeding and the content of the patent following the reexamination proceeding.

(b) A certificate will be issued in each patent in which a reexamination proceeding has been ordered under § 1.525. Any statutory disclaimer filed by the patent owner will be made part of the certificate.

(c) The certificate will be mailed on the day of its date to the patent owner at the address as provided for in § 1.33(c). A copy of the certificate will also be mailed to the requester of the reexamination proceeding.

(d) If a certificate has been issued which cancels all of the claims of the patent, no further Office proceedings will be conducted with regard to that patent or any reissue applications or reexamination requests relating thereto.

(e) If the reexamination proceeding is terminated by the grant of a reissued patent as provided in § 1.565(d) the reissued patent will constitute the reexamination certificate required by this section and 35 U.S.C. 307.

(f) A notice of the issuance of each certificate under this section will be published in the *Official Gazette* on its date of issuance.

[46 FR 29185, May 29, 1981, as amended at 47 FR 21753, May 19, 1982]

Subpart E—Interferences

AUTHORITY: 35 U.S.C. 6, 23, 41, and 135.

SOURCE: 49 FR 48455, Dec. 12, 1984, unless otherwise noted.