

control of, or is readily available to any individual designated in [37 CFR 1.56\(c\)](#).

After the examiner reviews the IDS for compliance with [37 CFR 1.97](#) and [1.98](#) (see [MPEP § 609.05](#)), the examiner should:

(A) Consider the information properly submitted in an IDS in the same manner that the examiner considers other documents in Office search files while conducting a search of the prior art in a proper field of search.

(1) For e-IDS, use the e-IDS icon on examiner's workstation to consider cited U.S. patents and U.S. patent application publications. See [MPEP § 609.07](#) for more information on e-IDS.

(2) Initial the blank column next to the citation to indicate that the information has been considered by the examiner, or use the alternative electronic signature method by inserting on each page of reference citations the phrase "All references considered except where lined through" along with the examiner's electronic initials, and providing the examiner's electronic signature on the final page of reference citations.

(B) Draw a line through the citation to show that it has not been considered if the citation fails to comply with all the requirements of [37 CFR 1.97](#) and [37 CFR 1.98](#). The examiner should inform applicant the reasons why a citation was not considered.

(C) Write "not considered" on an information disclosure statement if none of the information listed complies with the requirements of [37 CFR 1.97](#) and [37 CFR 1.98](#). The examiner will inform applicant the reasons why the IDS was not considered by using form paragraphs 6.49 through 6.49.10.

(D) Sign and date the bottom of the IDS listing, or use the alternative electronic signature method noted in item (A)(2) above.

(E) Ensure that a copy of the IDS listing that is signed and dated by the examiner is entered into the file and mailed to applicant.

For discussion of electronic processing of IDS, see [MPEP § 609.08](#).

609.02 Information Disclosure Statements in Continued Examinations or Continuing Applications [R-07.2015]

I. CONSIDERATION OF PRIOR ART CITED IN A PARENT INTERNATIONAL APPLICATION

When filing a continuing application that claims benefit under [35 U.S.C. 120](#) to a parent application (other than an international application that designated the U.S.), it will not be necessary for the applicant to submit an information disclosure statement in the continuing application that lists the prior art cited by the examiner in the parent application unless the applicant desires the information to be printed on the patent issuing from the continuing application (for continued prosecution applications filed under [37 CFR 1.53\(d\)](#), see subsection A.1. below). The examiner of the continuing application will consider information which has been considered by the Office in the parent application.

When filing a continuing application that claims benefit under [35 U.S.C. 120](#) to an international application that designated the U.S. (see [MPEP § 1895](#)), it will be necessary for the applicant to submit an information disclosure statement complying with [37 CFR 1.97](#) and [1.98](#) in the continuing application listing the documents cited in the international search report and/or the international preliminary examination report of the international application if applicant wishes to ensure that the information is considered by the examiner in the continuing application.

See [MPEP § 609.03](#) for consideration of documents cited in the international search report in a PCT national stage application.

II. IDS IN CONTINUED EXAMINATIONS OR CONTINUING APPLICATIONS

A. IDS That Has Been Considered (1) in the Parent Application, or (2) Prior to the Filing of a Request for Continued Examination (RCE)

1. Continued Prosecution Applications (CPAs) Filed Under 37 CFR 1.53(d)

Information which has been considered by the Office in the parent application of a continued prosecution application (CPA) filed under [37 CFR 1.53\(d\)](#) will be part of the file before the examiner and need not be resubmitted in the continuing application to have the information considered and listed on the patent.

2. Continuation Applications, Divisional Applications, or Continuation-in-Part Applications Filed Under 37 CFR 1.53(b)

The examiner will consider information which has been considered by the Office in a parent application (other than an international application; see subsection I., above) when examining: (A) a continuation application filed under [37 CFR 1.53\(b\)](#), (B) a divisional application filed under [37 CFR 1.53\(b\)](#), or (C) a continuation-in-part application filed under [37 CFR 1.53\(b\)](#). A listing of the information need not be resubmitted in the continuing application unless the applicant desires the information to be printed on the patent.

If resubmitting a listing of the information, applicant should submit a new listing that complies with the format requirements in [37 CFR 1.98\(a\)\(1\)](#) and the timing requirements of [37 CFR 1.97](#). Applicants are strongly discouraged from submitting a list that includes copies of PTO/SB/08 or PTO-892 forms from other applications. A completed PTO/SB/08 form from another application may already have initials of an examiner and the application number of another application. This information will likely confuse the record. Furthermore, when the spaces provided on the form have initials of an examiner, there are no spaces available next to the documents listed for the examiner of the subsequent application to provide his or her initials, and the previously

relevant initials may be erroneously construed as being applied for the current application.

3. Requests for Continued Examination (RCE) Under 37 CFR 1.114

Information which has been considered by the Office in the application before the filing of a RCE will be part of the file before the examiner and need not be resubmitted to have the information considered by the examiner and listed on the patent.

B. IDS That Has Not Been Considered (1) in the Parent Application, or (2) Prior to the Filing of a Request for Continued Examination

1. Continued Prosecution Applications Filed Under 37 CFR 1.53(d)

Information filed in the parent application that complies with the content requirements of [37 CFR 1.98](#) will be considered by the examiner in the CPA. No specific request from the applicant that the previously submitted information be considered by the examiner is required.

2. Continuation Applications, Divisional Applications, or Continuation-In-Part Applications Filed Under 37 CFR 1.53(b)

For these types of applications, in order to ensure consideration of information previously submitted, but not considered, in a parent application, applicant must resubmit the information in the continuing application in compliance with [37 CFR 1.97](#) and [37 CFR 1.98](#). Pursuant to [37 CFR 1.98\(d\)](#), if the IDS submitted in the parent application complies with [37 CFR 1.98\(a\)](#) to (c), copies of the patents, publications, pending U.S. applications, or other information submitted in the parent application need not be resubmitted in the continuing application.

When resubmitting a listing of the information, applicant should submit a new listing that complies with the format requirements in [37 CFR 1.98\(a\)\(1\)](#). Applicants are strongly discouraged from submitting a list that includes copies of PTO/SB/08 or PTO-892 forms from other applications. A PTO/SB/08 form from another application may already have the

application number of another application. This information will likely confuse the record.

3. Requests for Continued Examination Under 37 CFR 1.114

Information filed in the application in compliance with the content requirements of [37 CFR 1.98](#) before the filing of a RCE will be considered by the examiner after the filing of the RCE. For example, an applicant filed an IDS in compliance with [37 CFR 1.98](#) after the mailing of a final Office action, but the IDS did not comply with the requirements of [37 CFR 1.97\(d\)\(1\)](#) and [\(d\)\(2\)](#) and therefore, the IDS was not considered by the examiner. After applicant files a RCE, the examiner will consider the IDS filed prior to the filing of the RCE. For more details on RCE, see [MPEP § 706.07\(h\)](#).

609.03 Information Disclosure Statements in National Stage Applications [R-08.2012]

The examiner will consider the documents cited in the international search report in a PCT national stage application when the Form PCT/DO/EO/903 indicates that both the international search report and the copies of the documents are present in the national stage file. In such a case, the examiner should consider the documents from the international search report and indicate by a statement in the first Office action that the information has been considered. There is no requirement that the examiner list the documents on a PTO-892 form.

In a national stage application, the following form paragraphs may be used where appropriate to notify applicant regarding references listed in the search report of the international application:

¶ 6.53 References Considered in 35 U.S.C. 371 Application Based Upon Search Report - Prior to Allowance

The references cited in the PCT international search report by the [1] have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with [37 CFR 1.98\(a\)\(1\)](#). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within the set period for reply to this Office action.

Examiner Note:

1. In bracket [1], identify the office (e.g., JPO, EPO, etc.) that issued the international search report and the date it issued.

2. This form paragraph may be used for national stage applications under [35 U.S.C. 371](#) where the examiner has obtained copies of the cited references or where copies of such references are not required under 37 CFR 1.98. If receipt of copies of references required under 37 CFR 1.98 is not indicated on the PCT/DO/EO/903 form in the file, burden is on the applicant to supply such copies for consideration. See [MPEP § 1893.03\(g\)](#).

3. Instead of using this form paragraph, the examiner may list the references on a PTO-892, thereby notifying the applicant that the references have been considered and will be printed on any patent resulting from this application.

4. This form paragraph should only be used prior to allowance when a statutory period for reply is being set in the Office action.

5. If the application is being allowed, form paragraph 6.54 should be used with the Notice of Allowability instead of this form paragraph.

¶ 6.54 References Considered in 35 U.S.C. 371 Application Based Upon Search Report - Ready for Allowance

The references cited in the PCT international search report by the [1] have been considered, but will not be listed on any patent resulting from this application because they were not provided on a separate list in compliance with [37 CFR 1.98\(a\)\(1\)](#). In order to have the references printed on such resulting patent, a separate listing, preferably on a PTO/SB/08A and 08B form, must be filed within ONE MONTH of the mailing date of this communication. NO EXTENSION OF TIME WILL BE GRANTED UNDER EITHER [37 CFR 1.136\(a\)](#) OR [\(b\)](#) to comply with this requirement.

Examiner Note:

1. In bracket [1], identify the office (e.g., JPO, EPO, etc.) that issued the international search report and the date it issued.

2. This form paragraph may be used for national stage applications under [35 U.S.C. 371](#) where the examiner has obtained copies of the cited references or where copies of such references are not required under [37 CFR 1.98](#). If receipt of copies of references required under [37 CFR 1.98](#) is not indicated on the PCT/DO/EO/903 form in the file, burden is on the applicant to supply such copies for consideration. See [MPEP § 1893.03\(g\)](#).

3. Instead of using this form paragraph, the examiner may list the references on a PTO-892, thereby notifying the applicant that the references have been considered and will be printed on any patent resulting from this application.

¶ 6.55 References Not Considered in 35 U.S.C. 371 Application Based Upon Search Report

The listing of references in the PCT international search report is not considered to be an information disclosure statement (IDS) complying with [37 CFR 1.98](#). [37 CFR 1.98\(a\)\(2\)](#) requires a legible copy of: (1) each foreign patent; (2) each publication or that portion which caused it to be listed; (3) for each cited pending U.S. application, the application specification including claims, and any drawing of the application, or that portion of the application which caused it to be listed including any claims directed to that portion, unless the cited pending U.S. application is stored in the Image File Wrapper (IFW) system; and (4) all