Chapter 900 Prior Art, Search, Classification, and Routing

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901 Prior Art [R-08.2012]

Note 37 CFR 1.104(a)(1) in MPEP § 707. See also MPEP § 2121- § 2129.

901.01 Canceled Matter in U.S. Patent Files [R-08.2017]

Canceled matter in the application file of a U.S. patent or U.S. application publication is not a proper reference as of the filing date under 35 U.S.C. 102(a)(2) or pre-AIA 35 U.S.C. 102(e). See *Ex parte Stalego*, 154 USPQ 52, 53 (Bd. App. 1966). However, matter canceled from the application file wrapper of a U.S. patent or U.S. application publication may be used as prior art as of the patent or publication date, respectively, in that it then constitutes prior public knowledge or prior public availability under 35 U.S.C. 102(a)(1) or pre-AIA 35 U.S.C. 102(a). See, e.g., *In re Lund*, 376 F.2d 982, 153 USPQ 625 (CCPA 1967). See also MPEP § 2127 and § 2136.02.

901.01(a) Ordering of Patented and Abandoned Provisional and Nonprovisional Application Files [R-07.2022]

In the examination of an application, it is sometimes necessary to inspect the application papers of some previously abandoned application (provisional or nonprovisional) or granted patent. This is always true in the case of a reissue application and reexamination proceeding.

If the patented or abandoned file is an Image File Wrapper (IFW) file, examiners can view the application papers from their desktop via the Patent Examiner's Toolkit. Patented and abandoned files that are not available in IFW are stored at the Files Repository. Older files are housed in remote warehouses located in Maryland and Virginia.

Patented and abandoned files that are stored in paper are ordered by means of the File Ordering System (FOS). To place such an order, the system requires the examiner's delivery organization (i.e. art unit), employee number, and patent number(s) and/or application number(s) of the file(s) that are needed. After transmission of the request transaction by the examiner, a "response" screen appears which informs the examiner of the status of the request for each file. The examiner is informed that the request:

(A) is accepted;

(B) is accepted, but the file is located at a remote warehouse (in which case delivery time is increased);

(C) is not accepted because the file is not located at the repository or warehouse;

(D) is not accepted because a previous request for the file has not yet been filled; or

(E) is not accepted because the patent or application number inputted is not valid.

Personnel at the Files Repository periodically retrieve the requested files and deliveries of files are made to the requesters' interoffice mailing address. Upon delivery of files at the various locations, Files Repository personnel also retrieve files that are ready to be returned to the repository.

901.02 Abandoned Applications [R-07.2015]

If an abandoned application was previously published under 35 U.S.C. 122(b), that patent application publication is available as prior art under pre-AIA 35 U.S.C. 102(a) and 102(b) and 35 U.S.C. 102(a)(1) as of its patent application publication date because the patent application publication is considered to be a "printed" publication within the meaning of pre-AIA 35 U.S.C. 102(a) and 102(b) and 35 U.S.C. 102(a)(1), even though the patent application publication is disseminated by the U.S. Patent and Trademark Office (Office) using only electronic media. See MPEP § 2128. Additionally, as described in MPEP § 901.03, a patent application publication published under 35 U.S.C. 122(b) of an application that has become abandoned may be available as prior art under pre-AIA 35 U.S.C. 102(e) as of the earliest effective U.S. filing date of the published application and may be available under 35 U.S.C. 102(a)(2) as of the date it was effectively filed. As provided in 37 CFR 1.11(a), unless a redacted copy of the application was used for the patent application publication, the specification, drawings, and all papers relating to the file of an abandoned published application are open to inspection by the public, and copies may be obtained from the Office. The information that is available to the public under 37 CFR 1.11(a) may be used as prior art under pre-AIA 35 U.S.C. 102(a) or 102(b) or 35 U.S.C. 102(a)(1) as of the date the information became publicly available.

Where an unpublished abandoned application is identified or whose benefit is claimed in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication of an international application that was published in accordance with PCT Article 21(2), the file contents of the unpublished abandoned application may be made available to the public. See 37 CFR 1.14(a)(1)(iv). Subject matter from abandoned applications which is available to the public under 37 CFR 1.14 may be used as prior art against a pending U.S. application under pre-AIA 35 U.S.C. 102(a) or 102(b) or 35 U.S.C. 102(a)(1) as of the date the subject matter became publicly available.

In re Heritage,182 F.2d 639, 86 USPQ 160 (CCPA 1950), holds that where a patent refers to and relies on the disclosure of a previously copending but subsequently abandoned application, such disclosure is available as a reference. See also *In re Lund*,376 F.2d 982, 153 USPQ 625 (CCPA 1967).

It has also been held that where the reference patent refers to a previously copending but subsequently abandoned application which discloses subject matter in common with the patent, the effective date of the reference as to the common subject matter is the filing date of the abandoned application. See *In re Switzer*, 166 F.2d 827, 77 USPQ 156 (CCPA 1948); *Ex parte Peterson*, 63 USPQ 99 (Bd. App. 1944); and *Ex parte Clifford*, 49 USPQ 152 (Bd. App. 1940). See MPEP § 2127, subsection I.

Published abstracts, abbreviatures, defensive publications (MPEP § 901.06(d)), and statutory invention registrations (MPEP Chapter 1100) are references.

901.03 Pending Applications [R-07.2015]

Except as provided in 37 CFR 1.11(b), 37 CFR 1.14(a)(1)(v) and 37 CFR 1.14(a)(1)(vi), pending U.S. applications which have not been published are generally preserved in confidence (37 CFR 1.14(a)) and are not available as references. However, claims in one nonprovisional application may be rejected on the claimed subject matter of a copending nonprovisional application of the same inventive entity. See MPEP § 804. For applications having a common assignee or applicant and different inventive entities claiming a single inventive concept, see MPEP § 804.03. See also MPEP § 2127, subsection IV.

The American Inventors Protection Act of 1999 (AIPA) was enacted into law on November 29, 1999. The AIPA amended 35 U.S.C. 122 to provide that, with certain exceptions, applications for patent filed on or after November 29, 2000 shall be published promptly after the expiration of a period of eighteen (18) months from the earliest filing date for which a benefit is sought under title 35, United States Code, and that an application may be published earlier at the request of the applicant. See 35 U.S.C. 122(b) and 37 CFR 1.215 and 1.219. In addition,

applications filed prior to November 29, 2000, but pending on November 29, 2000, may be published if a request for voluntary publication is filed. See 37 CFR 1.221. Patent applications filed on or after November 29, 2000, and those including a request for voluntary publication shall be published except for the following enumerated exceptions.

First, an application shall not be published if it is:

(A) no longer pending;

(B) subject to a secrecy order under 35 U.S.C. 181, that is, publication or disclosure of the application would be detrimental to national security;

(C) a provisional application filed under 35 U.S.C. 111(b);

(D) an application for a design patent filed under 35 U.S.C. 171;

(E) an application for an International design application filed under 35 U.S.C. 382; or

(F) a reissue application filed under 35 U.S.C. 251.

Second, an application shall not be published if an applicant submits at the time of filing of the application a request for nonpublication. See MPEP § 1122.

U.S. patent application publications are prior art under pre-AIA 35 U.S.C. 102(a) and 102(b) and 35 U.S.C. 102(a)(1) as of the publication date. Under pre-AIA 35 U.S.C. 102(e)(1) and 35 U.S.C. 102(a)(2), a U.S. patent application publication under 35 U.S.C. 122(b) is considered to be prior art as of the earliest effective U.S. filing date of the published application. Additionally, a U.S. patent application publication of a National Stage application and a WIPO publication of an international application under PCT Article 21(2) are considered to be prior art under pre-AIA 35 U.S.C. 102(e) as of the international filing date, or an earlier effective U.S. filing date, only if the international application was filed on or after November 29, 2000, designated the United States, and was published under PCT Article 21(2) in English. Similarly, a U.S. patent application publication of a National Stage application and a WIPO publication of an international application under PCT Article 21(2) are considered to be prior art under 35 U.S.C. 102(a)(2) as of the international filing date, or an earlier effective U.S. filing date.

901.04 U.S. Patents [R-10.2019]

I. U.S. PATENT SERIES

The following different series of U.S. patents are being or in the past have been issued. The date of patenting given on the face of each copy is the publication date and is the one usually cited. The filing date, in most instances also given on the face of the patent, is ordinarily the effective date as a reference. See MPEP §§ 2127, subsection II, 2136 and 2154. The pre-AIA 35 U.S.C. 102(e) date of a U.S. patent can be an earlier effective U.S. filing date. See MPEP § 2136 et seq. The 35 U.S.C. 102(a)(2) prior art date of a U.S. patent issued from a nonprovisional application claiming the benefit of a prior domestic application or priority to a foreign filed application may be the filing date of the prior filed application. See MPEP § 2154.01(b).

X-Series. These are the approximately 10,000 patents issued between 1790 and July 4, 1836. They were not originally numbered, but have since been assigned numbers in the sequence in which they were issued. The number should *not* be cited. When copies are ordered, the patentee's name and date of issue suffice for identification.

1836 Series. The mechanical, electrical, and chemical patents issued since 1836 and frequently designated as "utility" patents are included in this series. A citation by number only is understood to refer to this series. This series comprises the bulk of all U.S. patents issued. Some U.S. patents issued in 1861 bear two numbers but only the larger number should be cited.

Reissue Series. Reissue patents (see MPEP § 1401) have been given a separate series of numbers preceded by "Re." In citing, the letters and the number must be given, e.g., Re. 1776. The date that it is effective as a reference is the effective date of the original patent application, not the filing date of the reissue application.

Design reissue patents are numbered with the same number series as "utility" reissue patents. The letter

prefix does, however, indicate them to be design reissues.

A.I. Series. From 1838 to 1861, patents covering an inventor's improvement on their own patented device were given a separate series of numbers preceded by "A.I." to indicate Additional Improvement. In citing, the letters and the number must be given, e.g., A.I. 113. About 300 such patents were issued.

Plant Patent Series. When the statutes were amended to provide for patenting certain types of plants (see MPEP Chapter 1600) these patents were given a separate series of numbers. In citing, the letters "P.P." and the number must be given, e.g., P.P. 13.

Design Patents. Patents for designs (see MPEP Chapter 1500) are issued under a separate series of numbers preceded by "D." In citing, the letter "D" and the number must be given, e.g., D. 140,000.

II. CERTIFICATES AFTER THE ISSUANCE OF A U.S. PATENT

Following the issuance of a U.S. patent, the patent may be amended through a variety of Office proceedings. Each of these proceedings concludes with the issuance of a certificate which identifies the manner in which the patent was amended.

Reexamination Certificates. A reexamination proceeding is concluded by the issuance and publication of a reexamination certificate, which indicates all changes to the specification, including the claims, and drawings. Any changes made during the reexamination proceeding may not enlarge the scope of the claims or introduce new matter. Upon publication of the reexamination certificate, all changes are incorporated into the patent. Accordingly, the prior art date for subject matter in the reexamination certificate is the same as the prior art date for the patent that was reexamined. See 35 U.S.C. 307 and pre-AIA 35 U.S.C. 316.

Certificates of Correction. A certificate of correction corrects errors in the patent and is considered as part of the original patent. A patent, together with its certificate of correction, will have the same prior art effect as if the original patent was issued in the corrected form. See 35 U.S.C. 254 and 255.

Post-Grant Review Certificates. Once the Patent Trial and Appeal Board (PTAB) issues a final decision on post grant review proceeding and the time for appeal has expired or any appeal has terminated, the Office will issue and publish a post grant review certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any new or amended claim determined to be patentable.

Inter Partes Review Certificates. Once the PTAB issues a final decision in an *Inter Partes* Review proceeding and the time for appeal has expired or any appeal has terminated, the Office will issue and publish an inter partes review certificate canceling any claim of the patent finally determined to be unpatentable, confirming any claim of the patent determined to be patentable, and incorporating in the patent any new or amended claim determined to be patentable.

Derivation Certificates. At the conclusion of a derivation proceeding, if the final decision of the PTAB is adverse to claims in a patent, and the time for appeal has expired or any appeal or other review of the decision has terminated, the Office will issue and publish a derivation certificate canceling those claims of the patent. Inventorship of a patent may also be corrected via a derivation proceeding.

III. NUMBERS FOR IDENTIFICATION OF BIBLIOGRAPHIC DATA ON THE FIRST PAGE OF PATENT AND LIKE DOCUMENTS (INID NUMBERS)

The purpose of INID Codes ("INID" is an acronym for "Internationally agreed Numbers for the Identification of (bibliographic) Data") is to provide a means whereby the various data appearing on the first page of patent and like documents can be identified without knowledge of the language used and the laws applied. They are now used by most patent offices and have been applied to U.S. patents since August 4, 1970. Some of the codes are not pertinent to the documents of a particular country

and some which are may, in fact, not be used. For a list of INID Codes, see MPEP § 901.05(b).

901.04(a) Kind Codes [R-08.2017]

On January 2, 2001, the United States Patent and Trademark Office (USPTO) began printing the World Intellectual Property Organization (WIPO) Standard ST.16 code on each of its published patent documents. WIPO Standard ST.16 codes (kind codes) include a letter, and in many cases a number, used to distinguish the kind of patent document (e.g., publication of an application for a utility patent (patent application publication), utility patent, plant patent application publication, plant patent, or design patent) and the level of publication (e.g., first publication, second publication, or corrected publication). Detailed information on Standard ST.16 and the use of kind codes by patent offices throughout the world is available on the WIPO website at **www.wipo.int/scit/en** under the links for WIPO standards and other documentation.

In addition, some kind codes assigned to existing USPTO patent documents were changed because, beginning on March 15, 2001, patent application publications began to be published weekly on Thursdays.

The tables below give a summary of the kind codes which are no longer being used on certain published patent documents as well as a summary of the kind codes which will be used on published patent documents after January 2, 2001. It is recommended that USPTO documents be identified by the following three elements: (A) the two-character country code (US for United States of America); (B) the patent or publication number; and (C) the WIPO ST.16 kind code. For example, "US 7,654,321 B1" for U.S. Patent No. 7,654,321 where there was no previously published patent application publication, and "US 2003/1234567 A1" for U.S. Patent Application Publication No. 2003/1234567, in 2003. Each year the numbering of published patent applications will begin again with the new four-digit year and the number 0000001, so the number of a patent application publication must include an associated year.

Summary of USPTO Kind Codes No Longer Used as of January 2, 2001*		
WIPO ST.16 Kind Codes	**Kind of document**	**Comments**
A	Patent	Kind code replaced by B1 or B2
P	Plant Patent	Kind code replaced by P2 or P3
B1, B2, B3...	Reexamination Certificate	Kind code replaced by C1, C2, C3...

*See the table below for the new uses for codes B1 and B2 beginning January 2, 2001.

Summary of USPTO Kind Codes Used on Documents Published Beginning January 2, 2001		
WIPO ST.16 Kind Codes	**Kind of document**	**Comments**
A1	Patent Application Publication	Pre-grant publication available March 2001
A2	Patent Application Publication (Republication)	Pre-grant publication available March 2001
A9	Patent Application Publication (Corrected Publication)	Pre-grant publication available March 2001
B1	Patent	No previously published pre-grant publication
B2	Patent	Having a previously published pre-grant publication and available March 2001

Summary of USPTO Kind Codes Used on Documents Published Beginning January 2, 2001		
WIPO ST.16 Kind Codes	**Kind of document**	**Comments**
C1, C2, C3, ...	Reexamination Certificate	Previously used codes B1 and B2 are now used for granted Patents
E	Reissue Patent	No change
H	Statutory Invention Registration (SIR)	No change
P1	Plant Patent Publication Application	Pre-grant publication available March 2001
P2	Plant Patent	No previously published pre-grant publication
P3	Plant Patent	Having a previously published pre-grant publication and available March 2001
P4	Plant Patent Application Publication (Republication)	Pre-grant publication available after March 2001
P9	Plant Patent Application Publication (Corrected Publication)	Pre-grant publication available March 2001
S	Design Patent	No change

Summary of USPTO Kind Codes Associated with AIA Trials	
WIPO ST.16 Kind Code	**Kind of Document**
J	Post-Grant Review Certificate
K	Inter Partes Review Certificate
O	Derivation Certificate

901.05 Foreign Patent Documents [R-08.2017]

All foreign patents, published applications, and any other published derivative material containing portions or summaries of the contents of published or unpublished patents (e.g., abstracts) which have been disseminated to the public are available to U.S. examiners. See MPEP §§ 901.06(a), paragraphs I.C. and IV.C and 901.08. In general, a foreign patent, the contents of its application, or segments of its content should not be cited as a reference until its date of patenting or its public availability date (e.g., publication date) can be confirmed by an examiner's review of a copy of the document. Examiners should remember that in some countries, there is a delay between the date of the patent grant and the date of publication.

Information pertaining to those countries from which the most patent publications are received is given in the following sections and in MPEP § 901.05(a). Additional information can be obtained from the Scientific and Technical Information Center (STIC).

See MPEP § 707.05(e) for data used in citing foreign references.

I. OVERVIEW OF FOREIGN PATENT LAWS

This section includes some general information on foreign patent laws and summarizes particular features and their terminology. Some additional details on the most commonly cited foreign patent publications may be found under the individual country in paragraph V., below. Examiners should recall that, in contrast to the practice in many other countries, under U.S. patent law a number of different events all occur on the issue date of a U.S. patent. These events include the following:

(A) a patent document, the "letters patent" which grants and thereby creates the legal rights conferred by a patent, is executed and sent to the applicant;

(B) the patent rights come into existence;

(C) the patent rights can be exercised;

(D) the specification of the patent becomes available to the public;

(E) the patented file becomes available to the public;

(F) the specification is published in printed form; and

(G) an issue of an official journal, the *Official Gazette*, containing an announcement of the patent and a claim, is published.

In most foreign countries, various ones of these events occur on different days and some of them may never occur at all.

The following list catalogs some of the most significant foreign variations from U.S. practices:

A. Applicant

In most countries, the owner of the prospective rights, derived from the inventor, may also apply for a patent in the owner's name as applicant; in a few, other persons may apply as well or be joined as coapplicants. Hence, applicant is not synonymous with inventor, and the applicant may be a company. Some countries require the inventors' names to be given and regularly print them on the published copies. Other countries may sometimes print the inventors' names only when available or when requested to do so.

B. Application

The word "application" is commonly used in the U.S. to refer to the entire set of papers filed when seeking a patent. However, in many countries and in PCT cases, the word application refers only to the paper, usually a printed form, which is to be "accompanied by" or have "attached" to it certain other papers, namely a specification, drawings when necessary, claims, and perhaps other papers. Unless it is otherwise noted in the following portions of this section, the term "application" refers to the entire set of papers filed.

C. Publication of Contents of Pending Applications

In general, pending applications are confidential until a certain stage in the proceedings (e.g., upon patent grant), or until a certain date (e.g., 18 months after filing), as may be specified in a particular law. Many countries have adopted the practice of publishing the specification, drawing, or claims of pending applications. In these countries, the publication of the contents of the application occurs at a certain time, usually 18 months after filing. The applicant is given certain provisional rights upon publication even though examination has not been completed or in some cases has not even begun at the time of publication.

This publication may take either of two forms. In the first form, some countries publish a notice giving certain particulars in their official journal, and thereafter, any one may see the papers at the patent office or order copies. This procedure is referred to as "laying open for public inspection." There is no printed publication of the specification, although an abstract may be published in printed form. If anyone can inspect or obtain copies of the laid open application, then it is sufficiently accessible to the public to constitute a "publication" within the meaning of pre-AIA 35 U.S.C. 102(a) and 102(b) and 35 U.S.C. 102(a)(1). The full application is thus available as prior art as of either the date of publication of its notice or its laying open to public inspection if this is a later date. See *In re Wyer*, 655 F.2d 221, 210 USPQ 790 (CCPA 1981). See MPEP § 2127, paragraph III.

In the second form, several other countries publish the specifications of pending applications in printed form at a specified time, usually 18 months after filing. These documents, of course, constitute references as printed publications.

D. Administrative Systems

Patent law administration varies from country to country. In some countries, all that is undertaken is an inspection of the papers to determine if they are in proper form. Other countries perform an examination of the merits on the basis of an extensive search of the prior art, as is done in the U.S. The former are referred to as nonexamining or registration countries, although some systems allow for a rejection on matters apparent on the face of the papers, such as matters of form or statutory subject matter.

Of the examining countries, the extent of the material searched prior to issue varies greatly. Only a few countries include both their own patents and a substantial amount of foreign patent material and nonpatent publications in their search files. Some countries specifically limit the search by rule, or lack of facilities, to their own patents with very little or no additional material. An increasing number of countries are requiring applicants to give information concerning references cited in corresponding applications filed in other countries.

E. Opposition

Some examining countries consider participation by the public an inherent feature of their examining system. When an application is found to be allowable by the examiner, it is "published" for opposition. Then there is a period, usually 3 or 4 months, within which members of the public can oppose the grant of the patent. In some countries, the opposing party can be any person or company. In other countries, only those parties who are affected by the outcome can participate in the opposition. The opposition is an *inter partes* proceeding and the opposing party can ordinarily raise any ground on the basis of which a patent would be refused or held invalid, including any applicable references.

The publication for opposition may take the form of a laying open of the application by the publication of a notice in the official journal with the application being then open to public inspection and the obtaining of copies. Otherwise, publication occurs by the issue of the applications in printed form. Either way, these published documents constitute printed publications which are available as references under pre-AIA 35 U.S.C. 102(a) and 102(b) and 35 U.S.C. 102(a)(1).

F. The Patent

Practices and terminology vary worldwide regarding patents. In some countries, there is no "letters patent" document which creates and grants the rights. In other countries, the examiner grants the patent by signing the required paper. In a few countries, the patent is granted by operation of law after certain events have occurred. The term "granting the patent" is used here for convenience, but it should be noted that 35 U.S.C. 102(a) and 102(b) or 35 U.S.C. 102(a)(1) do not use this terminology.

A list of granted patents is ordinarily published in each country's official journal and some of these countries also print an abstract or claims at or after the granting date. Not all countries publish the granted patent. Where the specifications of granted patents are issued in printed form, publication seldom occurs simultaneously with the day of grant; instead, publication occurs a short time thereafter. There also are a few countries in which publication does not take place until several years after the grant.

The length of time for which the patent is enforceable (the patent term) varies from country to country. The term of the patent may start as of the grant of the patent, or as of the filing date of the application.

Most countries require the payment of periodic fees to maintain a patent in force. These fees often start a few years after filing and increase progressively during the term of the patent. If these fees are not paid within the time allowed, the patent lapses and is no longer in force. This lapsing does not affect the use of the patent as a reference.

G. Patents of Addition

Some countries issue patents of addition, which should be identified as such, and when separately numbered as in France, the number of the addition patent should be cited. "Patents of addition" generally cover improvements of a patented parent invention and can be obtained by the owner of the parent invention. Inventiveness in relation to the parent invention need not be demonstrated and the term is governed by the term of the parent patent.

II. CORRESPONDING SPECIFICATIONS IN A FAMILY OF PATENTS

Since a separate patent must be obtained in each country in which patent rights are desired (except for EP, the European Patent Convention, AP, the African Regional Industrial Property Organization, OA, African Intellectual Property Organization, GC, Patent Office of the Cooperation Council for the Arab States of the Gulf, and EA, Eurasian Patent

Office, whose members issue a common patent), there may be a large number of patents issued in different countries for the same invention. This group of patents is referred to as a family of patents.

All of the countries listed in paragraph V. below are parties to the Paris Convention for the Protection of Industrial Property and provide for the right of priority. If an application is filed in one of these countries, an application for the same invention thereafter filed in another country, within 1 year of the filing of the first application, will be entitled to the benefit of the filing date of the first application on fulfilling various conditions. See MPEP § 213. The patents or published specifications of the countries of later filing are required to specify that priority has been claimed and to give the country, date, and number of the priority application. This data serves the purpose, among others, of enabling any patent based on the priority application to be easily located.

In general, the specification of the second application is identical in substance to the specification of the first. In many instances, the second, if in another language, is simply a translation of the first with perhaps some variation in purely formal parts. But in a minority of cases, the two may not be identical. For instance, sometimes two applications filed in one country are combined into one second application which is filed in another country. Alternatively, a second application could be filed for only part of the disclosure of the priority application. The second application may have the relationship to the first which we refer to as a continuation-in-part (e.g., the second application includes additional subject matter discovered after the first was filed). In some instances, the second application could have its disclosure diminished or increased, to meet the requirements or practices of the second country.

Duplicate or substantially duplicate versions of a foreign language specification, in English or some other language known to the examiner, can sometimes be found. It is possible to cite a foreign language specification as a reference, while at the same time citing an English language version of the specification with a later date as a convenient translation if the latter is in fact a translation. Questions as to content in such cases must be settled based on the specification which was used as the reference.

If a U.S. patent or U.S. published application being considered as a reference in an application subject to pre-AIA 35 U.S.C. 102 claims the priority of a previously filed foreign application, it may be desirable to determine if the foreign application has issued or has been published, to see if there is an earlier date. For example, it has occurred that an examiner rejected claims on the basis of a U.S. patent and the applicant filed affidavits to overcome the filing date of the reference; the affidavits were controversial and the case went to appeal, with an extensive brief and an examiner's answer having been filed. After all this work, somebody noticed that the U.S. patent reference claimed the priority of a foreign application filed in a country in which patents were issued fairly soon, checked the foreign application, and discovered that the foreign patent had not only been issued, but also published in printed form, more than 1 year prior to the filing date of the application on appeal. If a U.S. patent or U.S. published application is being considered as a reference in an application subject to 35 U.S.C. 102, whether the filing date of the foreign priority application claimed in the reference can be used as the "effectively filed date" under 35 U.S.C. 102(a)(2) is determined by 35 U.S.C. 102(d). See MPEP § 2154.01(b).

If a foreign patent or specification claims the priority of a U.S. application, it can be determined whether the latter is abandoned, still pending, or patented. Even if the U.S. case is or becomes patented, however, the foreign documents may still be useful as supplying an earlier printed publication date.

If a foreign patent or specification claims the priority of an application in another foreign country, it may sometimes be desirable to check the latter to determine if the subject matter was patented or published at an earlier date. As an example, if a British specification being considered as a reference claims the priority of an application filed in Belgium, it is known at once that a considerably earlier effective date can be established, if needed, because Belgian patents issue soon after filing. In addition, if the application referred to was filed in one of the

countries which publish applications in printed form 18 months after filing, the subject matter of the application will be available as a printed publication as of the 18 month publishing date.

The determination of whether a foreign patent has been issued or the application published is a comparatively simple matter for some countries, but for some it is quite laborious and time-consuming. Sources for this data which are not maintained by the Office do exist and can be utilized for locating corresponding patents. Two possible sources are the Derwent World Patents Index (DWPI) produced by Thomson Reuters, and the International Patent Documentation Center (INPADOC), which is produced by the European Patent Office. Additionally, Chemical Abstracts Service (CAS) publishes abstracts of patents in the chemical arts from a large number of countries. Only one patent or published specification from a family is abstracted in full and any related family members issued or published are cross-referenced. Chemical Abstracts are available online via commercial databases or via Microfilm/CD-ROM in the Main Scientific and Technical Information Center (STIC). To get access to Chemical Abstracts online, examiners should contact their SPE for approval and email the STIC-ERC mailbox. The microfilm collection is available from 1907-1987; and the CD-ROM collection is available from 1987-2011. The coverage is for approximately 83 journals, with the oldest content dating from 1859. Examiners may also utilize the Global Dossier Public Access which provides online access to the file histories of related applications from participating IP Offices. This includes all international applications filed under the Patent Coorporation Treaty (PCT) as well as patent applications from World Intellectual Property Organization-Centralized Access to Search and Examination (WIPO-CASE) participating offices. See MPEP § 901.08 for additional information. See also **www.wipo.int/case/en/** for additional information regarding WIPO-CASE.

When an application is filed outside the Paris Convention year from an earlier application, the later application may not refer to the first application. It is hence possible that there will be duplicate specifications published without any indication revealing the fact. These may be detected when the two copies come together in the same subclass. Because the later application is filed outside the convention year, the earlier application may be prior art to the latter if it has been published or issued.

III. VALIDITY OF DATES DISPLAYED ON FACE OF FOREIGN PATENT DOCUMENTS

The examiner is not required to prove either the date or the occurrence of events specified on specifications of patents or applications, or in official journals, of foreign patent offices which the Office has in its possession. In a court action, certified copies of the Office copies of these documents constitute *prima facie* evidence in view of 28 U.S.C. 1745. An applicant is entitled to show the contrary by competent evidence, but this question seldom arises.

The date of receipt of copies by the Office, as shown by Office records or stamped on the copies, need only to be stated by the examiner, when necessary.

IV. NOTES ON INDIVIDUAL COUNTRIES

The following table gives some data concerning the published patent material of a number of countries to assist in their use and citation as references. This table reflects only the most current patent office practice for each foreign country specified and is not applicable for many older foreign patent documents. The STIC staff can help examiners obtain data related to any documents not covered by this table. The citation dates listed in the following table are not necessarily the oldest possible dates. Sometimes an earlier effective date, which is not readily apparent from the face of the document, is available. If an earlier date is important to a rejection, the examiner should consult STIC staff, who will attempt to obtain further information regarding the earliest possible effective date.

How To Use Table

Each horizontal row of boxes contains information on one or more distinct patent documents from a specified country available as a reference under pre-AIA 35 U.S.C. 102(a) and 102(b) or 35 U.S.C. 102(a)(1). If several distinct patent documents are included within a common box of a row, these

documents are related to each other and are merely separate documents published at different stages of the same invention's patenting process. Usually, this related group of documents includes a published application which ripens into an issued patent. Within each box of the second column of each row, the top listed document of a related group is the one that is "published" first (e.g., made available for public inspection by laying open application, or application printed and disseminated to the public). Once an examiner determines the country or organization publishing the documents, the name of the document can be located in the second column of the table and the examiner can determine if a document from the related group containing the same or similar disclosure having an earlier date is available as a reference. Usually, the documents within a related group have identical disclosures; sometimes, however, there are differences in the claims or minor differences in the specification. Therefore, examiners should always verify that the earlier related document also includes the subject matter necessary for the rejection. Some countries issue more than one type of patent and for clarity, in these situations, separate rows are provided for each type.

ISSUING/ PUBLISHING COUNTRY OR ORGANIZATION	DOCUMENT NAME IN LANGUAGE OF ISSUING COUNTRY (TYPE OF DOCUMENT)	FOREIGN LANGUAGE NAME DESIGNATING THE DATE USED FOR CITATION PURPOSES (TYPE OF DATE)	GENERAL COMMENTS
EP			
European Patent Office	European patent application	Date application made available to public	Printing of application occurs 18 months after priority date.
	European patent specification	Date published	EP dates are in day/month/year order.
	New European patent specification (above specification amended)	Date published	
FR			
France	Demande de brevet d'invention (patent application)	Disposition du public de la demande (date of laying open application)/date published	Date of laying open the application is the earliest possible date. This usually occurs 18 months after the filing or priority date but can occur earlier at applicant's request. The application is printed a short time after being laid open.
	Brevet d'invention (patent)	Disposition du public du brevet d'invention (date of publication of the notice of patent grant)	
			FR dates are in day/month/year order
FR			
France	Demande de certificat d'utilite (utility certificate application 1st level publication)	Disposition du public de la demande (date published)	
	Certificat d'utilite (utility certificate, 2nd publication)	Disposition du public du certificat d'utilite (date published)	

ISSUING/ PUBLISHING COUNTRY OR ORGANIZATION	DOCUMENT NAME IN LANGUAGE OF ISSUING COUNTRY (TYPE OF DOCUMENT)	FOREIGN LANGUAGE NAME DESIGNATING THE DATE USED FOR CITATION PURPOSES (TYPE OF DATE)	GENERAL COMMENTS
DE Germany	Offenlegungschrift (unexamined patent application)	Offenlegungstag (date application printed)	Patentschrift are printed (up to four different times) after examination and at various stages of opposition.
	Patentschrift (examined patent)	Veræfentlichungstag der patenterteilung (date printed)	DE dates are in day/month/year order
DE			
Germany	Patentschrift (Ausschließungspatent) (exclusive type patent based on former East German application and published in accordance with E. German laws)	First printing coded “DD” (date of first publication before examination as to novelty)	Several more printings (up to four) occur as examination proceeds and patent is granted. Separate DD numbering series is used.
DE			
Germany	Patentschrift (Wirtschaft-patent) (economic type patent published in accordance with East German laws)	First printing coded “DD” (date of first printing before examination as to novelty)	Another printing occurs after examination. Separate DD numbering series is used.
DE			
Germany	Gebrauchsmuster (utility model or petty patent)	Eintragungstag (date laid open after registration as a patent)	Copy is supplied only on request.
		Bekanntmachung im patentblatt (date published for public)	Published from No. DE-GM 1 186 500J.
JP Japan	Kôkai Tokkyo kôhô (unexamined patent application) Kôhyo Tokkyo kôhô (unexamined patent application based on international application)	Upper right corner beneath number (date laid open and printed)	INID codes (41)-(47) include first date listed in terms of the year of the Emperor. To convert yrs. prior 1989, add 1925. To convert yrs. after 1988, add 1988.
	Tokkyo kôhô (examined patent application)	Upper right corner beneath number (date laid open and printed; 1st publication when Kôkai Tokkyo kôhô or Kôhyo Tokkyo kôhô not published)	Newer documents also include second date following the first given in OUR Gregorian Calendar in year/month/day sequence in Arabic numerals intermixed with their equivalent JP characters.

ISSUING/ PUBLISHING COUNTRY OR ORGANIZATION	DOCUMENT NAME IN LANGUAGE OF ISSUING COUNTRY (TYPE OF DOCUMENT)	FOREIGN LANGUAGE NAME DESIGNATING THE DATE USED FOR CITATION PURPOSES (TYPE OF DATE)	GENERAL COMMENTS
JP Japan	Tokkyo shinpan seikyû kôkoku (corrected patent specification)	Upper right corner beneath number (date laid open and printed)	
JP Japan	Kôkai jitsuyô shin-an kôhô (unexamined utility model application) or Kôhyo jitsuyô shin-an kôhô (unexamined utility model application based on international)	Upper right corner beneath number (date laid open and printed)	
	Jitsuyô shin-an kôhô (examined utility model application)	Upper right corner beneath number (date laid open and printed; 1st publication when Kôkai or Kôhyo not published)	
JP Japan	Tôroku jitsuyô shin-an shinpan seikyû kôkoku (corrected registered utility model)		
JP Japan	Isyô kôhô (registered design application)		
RU Russian Federation	Zayavka Na Izobretenie (unexamined application for invention) Patent Na Izobreteniye (Patent)	Date application printed (1st publication) Date printed (normally 2nd publication, but 1st publication when application not published)	
RU Russian Federation	Svidetelstvo Na Poleznuyu Model (utility model)		Supplied upon request only
RU Russian Federation	Patent Na Promishlenniy Obrazec (design patent)		Supplied upon request only
GB United Kingdom	Published patent application (searched, but unexamined) Patent Specification (granted examined patent)	(date of printing the application) (date of printing)	
GB			
United Kingdom	Amended or Corrected Patent Specification (amended granted patent)	(date of printing)	
WO			
World Intellectual Property Organization	International application (PCT patent application)	(date of printing the application)	

901.05(a) Citation Data [R-07.2015]

Foreign patent publications that use Arabic and Roman numerals in lieu of names to indicate the date show in order the day, month, and year, or alternatively, the year, month, and day. Roman numerals always refer to the month.

Japanese patent application publications show the date in Arabic numerals by indicating in order the year of the reign of the Emperor, the month, and the day. To convert the Japanese year of the Emperor to the Western calendar year, for years prior to 1989, add 1925 to the JAPANESE YEAR. For example: 40.3.6 = March 6, 1965. For years after 1988, add 1988 to the JAPANESE YEAR.

901.05(b) Other Significant Data [R-08.2012]

I. NUMBERS FOR IDENTIFICATION OF BIBLIOGRAPHIC DATA ON THE FIRST PAGE OF PATENT AND LIKE DOCUMENTS INCLUDING INDUSTRIAL DESIGNS (INID NUMBERS)

The purpose of INID Codes ("INID" is an acronym for "Internationally agreed Numbers for the Identification of (bibliographic) Data") is to provide a means whereby the various data appearing on the first page of patent and like documents or in patent gazettes can be identified without knowledge of the language used and the laws applied. They are now used by most patent offices and have been applied to U.S. patents since August 4, 1970. Some of the codes are not pertinent to the documents of a particular country and some which are pertinent may, in fact, not be used. INID codes for industrial designs are similar to, but not identical to, those used for patents and like documents. INID codes for industrial designs are provided separately below.

INID Codes and Minimum Required for the Identification of Bibliographic Data for Patent and Like Documents (based on WIPO Standard ST.9)

(10) Identification of the patent, SPC or patent document
°(11) Number of the patent, SPC or patent document
°(12) Plain language designation of the kind of document
°(13) Kind of document code according to WIPO Standard ST.16
°(15) Patent correction information
°°(19) WIPO Standard ST.3 code, or other identification, of the office or organization publishing the document
Notes:
(i) For an SPC, data regarding the basic patent should be coded by using code (68).
(ii) °° Minimum data element for patent documents only.
(iii) With the proviso that when data coded (11) and (13), or (19), (11) and (13), are used together and on a single line, category (10) can be used, if so desired.
(20) Data concerning the application for a patent or SPC
°(21) Number(s) assigned to the application(s), e.g., "Numéro d'enregistrement national," "Aktenzeichen"
°(22) Date(s) of filing the application(s)
°(23) Other date(s), including date of filing complete specification following provisional specification and date of exhibition
(24) Date from which industrial property rights may have effect
(25) Language in which the published application was originally filed
(26) Language in which the application is published
Notes:
(i) Attention is drawn to the Appendix 3 of WIPO Standard ST. 9 which contains information on the term of protection and on the date from which industrial property rights referred to under code (24) may have effect.
(ii) The language under code (25) and (26) should be indicated by using the two-letter language symbol according to International Standard ISO 639:1988.
(30) Data relating to priority under the Paris Convention and other agreement not specifically provided for elsewhere
°(31) Number(s) assigned to priority application(s)
°(32) Date(s) of filing of priority application(s)
°(33) WIPO Standard ST.3 code identifying the national industrial property office allotting

the priority application number or the organization allotting the regional priority application number; for international applications filed under the PCT, the code "WO" is to be used

(34) For priority filings under regional or international arrangements, the WIPO Standard ST.3 code identifying at least one country party to the Paris Convention for which the regional or international application was made

Notes:

(i) With the proviso that when data coded (31), (32), and (33) are presented together, category (30) can be used, if so desired. If an ST.3 code identifying a country for which a regional or international application was made is published, it should be identified as such using INID Code (34) and should be presented separately from elements coded (31), (32) and (33) or (30).

(ii) The presentation of priority application numbers should be as recommended in WIPO Standards ST.10/C and in ST.34.

(40) Date(s) of making available to the public

°°(41) Date of making available to the public by viewing, or copying on request, an unexamined patent document, on which no grant has taken place on or before the said date

°°(42) Date of making available to the public by viewing, or copying on request, an examined patent document, on which no grant has taken place on or before the said date

°°(43) Date of making available to the public by printing or similar process of an unexamined patent document, on which no grant has taken place on or before the said date

°°(44) Date of making available to the public by printing or similar process of an examined patent document, on which no grant or only a provisional grant has taken place on or before the said date

°°(45) Date of making available to the public by printing or similar process of a patent document on which grant has taken place on or before the said date

(46) Date of making available to the public the claim(s) only of a patent document

°°(47) Date of making available to the public by viewing, or copying on request, a patent document on which grant has taken place on or before the said date

°(48) Date of issuance of a corrected patent document

Note:

°°Minimum data element for patent documents only, the minimum data requirement being met by indicating the date of making available to the public the patent document concerned.

(50) Technical information

°(51) International Patent Classification or, in the case of a design patent, as referred to in subparagraph 4(c) of WIPO Standard ST.9, International Classification for Industrial Designs

(52) Domestic or national classification

°(54) Title of the invention

(56) List of prior art documents, if separate from descriptive text

(57) Abstract or claim

(58) Field of search

Notes:

(i) The presentation of the classification symbols of the International Classification for Industrial Designs should be made in accordance with paragraph 4 of WIPO Standard ST.10/C.

(ii) With regard to code (56) attention is drawn to WIPO Standard ST.14 in connection with the citation of references on the front page of patent documents and in search reports attached to patent documents.

(60) References to other legally or procedurally related domestic or previously domestic patent documents including unpublished applications therefor

°(61) Number and, if possible, filing date of the earlier application, or number of the earlier publication, or number of earlier granted patent, inventor's certificate, utility model or the like to which the present document is an addition

°(62) Number and, if possible, filing date of the earlier application from which the present patent document has been divided up

°(63) Number and filing date of the earlier application of which the present patent document is a continuation

°(64) Number of the earlier publication which is "reissued"

(65) Number of a previously published patent document concerning the same application

(66) Number and filing date of the earlier application of which the present patent document is a substitute, i.e., a later application filed after the abandonment of an earlier application for the same invention

(67) Number and filing date of a patent application, or number of a granted patent, on which the present utility model application or registration (or a similar industrial property right, such as a utility certificate or utility innovation) is based

(68) For an SPC, number of the basic patent and/or, where appropriate, the publication number of the patent document

Notes:

(i) Priority data should be coded in category (30).

(ii) Code (65) is intended primarily for use by countries in which the national laws require that republication occur at various procedural stages under different publication numbers and these numbers differ from the basic application numbers.

(iii) Category code (60) should be used by countries which were previously part of another entity for identifying bibliographic data elements relating to applications or grants of patents which data had initially been announced by the industrial property office of that entity.

(70) Identification of parties concerned with the patent or SPC

°°(71) Name(s) of applicant(s)

(72) Name(s) of inventor(s) if known to be such

°°(73) Name(s) of grantee(s), holder(s), assignee(s) or owner(s)

(74) Name(s) of attorney(s) or agent(s)

°°(75) Name(s) of inventor(s) who is (are) also applicant(s)

°°(76) Names(s) of inventor(s) who is (are) also applicant(s) and grantee(s)

Notes:

(i) °°For patent documents for which grant has taken place on or before the date of making available to the public, and gazette entries relating thereto, the minimum data requirement is met by indicating the grantee, and for other documents by indication of the applicant.

(ii) (75) and (76) are intended primarily for use by countries in which the national laws require that the inventor and applicant be normally the same. In other cases (71) or (72) or (71), (72) and (73) should generally be used.

(80) Identification of data related to International Conventions other than the Paris Convention and to legislation

(90) with respect to SPC's

(81) Designated State(s) according to the PCT

(83) Information concerning the deposit of microorganisms, e.g., under the Budapest Treaty

(84) Designated Contracting States under regional patent conventions

(85) Date of commencement of the national phase pursuant to PCT Article 23(l) or 40(l)

(86) Filing data of the PCT international application, i.e., international filing date, international application number, and, optionally, the language in which the published international application was originally filed

(87) Publication data of the PCT international application, i.e., international publication date, international publication number, and, optionally, the language in which the application is published

(88) Date of deferred publication of the search report

(91) Date on which an international application filed under the PCT no longer has an effect in one or several designated or elected States due to failure to enter the national or regional phase or the date on which it has been determined that it had failed to enter the national or regional phase

(92) For an SPC, number and date of the first national authorization to place the product on the market as a medicinal product

(93) For an SPC, number, date and, where applicable, country of origin, of the first authorization to place the product on the market as a medicinal product within a regional economic community

(94) Calculated date of expiry of the SPC or the duration of the SPC

(95) Name of the product protected by the basic patent and in respect of which the SPC has been applied for or granted

(96) Filing date of the regional application, i.e., application filing date, application number, and, optionally, the language in which the published application was originally filed

(97) Publication data of the regional application (or of the regional patent, if already granted), i.e., publication date, publication number, and, optionally, the language in which the application (or, where applicable, the patent) is published

Notes:

(i) The codes (86), (87), (96), and (97) are intended to be used:

• on national documents when identifying one or more of the relevant filing data or publication data of a PCT international application, or of the regional application (or of the regional patent, if already granted), or

• on regional documents when identifying one or more of the relevant filing data or publication data of the PCT international application or of another regional application (or the regional patent, if already granted).

(ii) All data in code (86), (87), (96), or (97) should be presented together and preferably on a single line. The application number or publication number should comprise the three basic elements as shown in the example in paragraph 17 of WIPO Standard ST.10/B, i.e., the two letter code identifying the republishing office, the document number, and the kind of document code.

(iii) When data to be referenced by INID Codes (86) or (87) refer to two or more regional and/or PCT applications, each set of relevant filing or publication data of each such application should be displayed so as to be clearly distinguishable from other sets of relevant data, e.g., by presenting each set on a single line or by presenting the data of each set grouped together on adjacent lines in a column with a blank line between each set. When data to be referenced by codes (86), (87), (96), or (97) refer to two or more PCT international applications and/or regional applications (or regional patents, if already granted), each set of relevant filing or publication data of each such application (or granted patent) should be displayed so as to be clearly distinguishable from other sets of relevant data, e.g., by presenting each set on a single line or by presenting the data of each set grouped together on adjacent lines in a column with a blank line between each set.

(iv) The languages under codes (86), (87), (96), and (97) should be indicated by using the two-letter language symbols according to International Standard ISO 639:1988.

(v) The country of origin in code (93), if mentioned, should be indicated by using the two letter code according to WIPO Standard ST.3.

(vi) Attention is drawn to the Appendix which contains information on the term of protection and on the date from which SPCs referred to under code (94) may have effect.

II. NUMBERS FOR IDENTIFICATION OF BIBLIOGRAPHIC DATA ON THE FIRST PAGE OF INDUSTRIAL DESIGNS (INID NUMBERS)

INID codes for industrial designs are similar to, but not identical to, those used for patents and like documents. INID codes for industrial designs may be of most interest to design patent examiners.

INID Codes and Minimum Required for the Identification of Bibliographic Data for Industrial Designs (based on WIPO Standard ST.80)

(10) Data concerning the registration/renewal

°(11) Serial number of the registration and/or number of the design document

°°(12) Plain language designation of the kind of published document

°(14) Serial number of the renewal where different from initial registration number

°(15) Date of the registration/Date of the renewal

(17) Expected duration of the registration/renewal

(18) Expected expiration date of the registration/renewal

°°(19) Identification, using the two-letter code according to WIPO Standard ST.3, of the authority publishing or registering the industrial design.

Note:

°°Minimum data element for design documents only

(20) Data concerning the application

°(21) Serial number of the application

°(22) Date of filing of the application

°(23) Name and place of exhibition, and date on which the industrial design was first exhibited there (exhibition priority data)
(24) Date from which the industrial design right has effect
(27) Kind of application or deposit (open/sealed)
(28) Number of industrial designs included in the application
(29) Indication of the form in which the industrial design is filed, e.g., as a reproduction of the industrial design or as a specimen thereof
(30) Data relating to priority under the Paris Convention
°(31) Serial number assigned to the priority application
°(32) Date of filing of the priority application
(33) Two-letter code, according to WIPO Standard ST.3, identifying the authority with which the priority application was made
Notes:
(i) With the proviso that when data coded (31), (32) and (33) are presented together, category code (30) can be used, if so desired.
(ii) For international deposits made under the Hague Agreement, the two-letter code "WO" is to be used.
(40) Date(s) of making information available to the public
(43) Date of publication of the industrial design before examination by printing or similar process, or making it available to the public by any other means
(44) Date of publication of the industrial design after examination, but before registration, by printing or similar process, or making it available to the public by any other means
(45) Date of publication of the registered industrial design by printing or similar process, or making it available to the public by any other means
(46) Date of expiration of deferment
(50) Miscellaneous Information
°(51) International Classification for Industrial Designs (class and subclass of the Locarno Classification)
(52) National classification
(53) Identification of the industrial design(s) comprised in a multiple application or registration which is (are) affected by a particular transaction when not all are so affected
°(54) Designation of article ( ) or product ( ) covered by the industrial design or title of the industrial design
°°(55) Reproduction of the industrial design (e.g., drawing, photograph) and explanations relating to the reproduction
(56) List of prior art document, if separate from descriptive text
(57) Description of characteristic features of the industrial design including indication of colors
(58) Date of recording of any kind of amendment in the Register (e.g., change in ownership, change in name or address, renunciation to an international deposit, termination of protection)
Notes:
(i) Code (52) should be preceded by the two-letter code, according to WIPO Standard ST.3, identifying the country whose national classification is used (the two-letter code should be indicated within parentheses).
(ii) °°Minimum data element for design documents only.
(60) References to other legally related application(s) and registration(s)
(62) Serial number(s) and, if available, filing date(s) of application(s), registration(s) or document(s) related by division
(66) Serial number(s) of the application, or the registration, of the design(s) which is (are) a variant(s) of the present one
Note:
Category code (60) should be used by countries which were previously part of another entity for identifying bibliographic data elements relating to applications or registrations of industrial designs, which data had initially been announced by the industrial property office of that entity.
(70) Identification of parties concerned with the application or registration
°°(71) Name(s) and address(es) of the applicant(s)
(72) Name(s) of the creator(s) if known to be such
°°(73) Name(s) and address(es) of the owner(s)

(74) Name(s) and address(es) of the representative(s)
(78) Name(s) and address(es) of the new owner(s) in case of change in ownership
Note:
°°If registration has taken place on or before the date of making the industrial design available to the public, the minimum data requirement is met by indicating the owner(s); in other cases, by indicating the applicant(s).
(80) Identification of certain data related to the international deposit of industrial designs under the Hague Agreement Concerning the International Deposit of Industrial Designs and data related to other international conventions.
Designated State(s)/State(s) concerned:
(81) Designated State(s) according to the 1960 Act
(82) State(s) concerned according to the 1934 Act
(84) Designated Contracting State(s) under regional convention.
Information regarding the owner(s):
(86) Nationality of the owner(s)
(87) Residence or headquarters of the owner(s)
(88) State in which the owner(s) has (have) a real and effective industrial or commercial establishment
Note:
The data to be referenced by INID codes (81) to (88) should be indicated by using the two-letter code according to WIPO Standard ST.3.

901.05(c) Obtaining Copies [R-08.2017]

Until October 1, 1995, the U.S. Patent and Trademark Office (Office) received copies of the published specifications of patents and patent applications from nearly all the countries which issue them in printed form. The Office now receives most foreign patents in the form of CD-ROM and other electronic media. The foreign patents so obtained are available to examiners from the USPTO's automated search tools such as the Examiner's Automated Search Tool (EAST), the Web-based Examiner's Search Tool (WEST), the Foreign Patent Access System (FPAS), and from the Foreign Patents Service Center in STIC.

Until October 1995, it was the practice in the Office to classify and place only a single patent family member for each invention in the examiner search files. In addition, all non-English language patent documents placed in the examiner files were accompanied, to the extent possible, by an English language abstract. For countries where the specification is printed twice, once during the application stage and again after the patent has been granted, only the first printing was, in general, placed in the search files, since the second printing ordinarily does not vary from the first as to disclosure. The Derwent World Patents index is available on the EAST and WEST systems and provides patent family information and Derwent titles and abstracts in English of foreign patent documents.

Copies of various specifications not included in the search files, whether non-English-language patent documents or documents not printed or available for exchange, may come to the examiner's attention. For example, they may be cited in a motion to dissolve an interference, be cited by applicants, or turn up in an online search. Upon request, STIC will obtain a copy from its extensive collection, or if necessary, from the patent office of the particular country. In the case of unprinted patent documents, STIC will request that the date of granting and the date the specification was made available to the public be indicated on the copies provided by the country of origin. If the examiner wishes to obtain a copy of a specification from an international application filed under the Patent Cooperation Treaty (PCT) or a patent application from a WIPO-CASE participating Office, the Global Dossier Public Access is a tool which provides online access to the file histories of related applications. See MPEP § 901.08 for additional information.

Examiners can request copies of any foreign patent documents by submitting an online request using the Foreign Patent Request Form available through STIC's NPL website on the USPTO intranet. Examiners may also request copies directly from the Foreign Patents Service Center of STIC. If examiners so choose, they can make copies themselves. The most current patent documents are accessible through the USPTO's automated search systems, which allow public and USPTO users to look up, view, and print

foreign documents. Older documents can be found on microfilm or print copies in the Main Service Center of the STIC. See MPEP § 903.03. The STIC Foreign Patents Service Center and the Electronic Information Centers (EICs) will assist examiners with accessing patent data from foreign countries. If examiners prefer self-service, EAST, WEST and other foreign patent websites are available for foreign patent retrieval. Additionally, STIC translation staff is able to retrieve foreign patent information for examiners.

901.05(d) Translation [R-10.2019]

Examiners may consult the translators in the Translations Service Center of the Scientific and Technical Information Center (STIC) for oral assistance in translating foreign patents or literature that are possible references for an application being examined. Examiners may also request human (written) translations of pertinent portions of references being considered for citation or already cited in applications. See MPEP § 901.06(a), STIC Services - Translations, and MPEP § 903.03, Availability of Foreign Patents.

Examiners may request human (written) translations at any point in the examination process, at the discretion of the individual examiner, but are encouraged to use oral assistance, language reference resources, and machine translations where possible in the early phases of examination. See MPEP § 2120. Examiners can request human (written) translations, or machine translations, by submitting an online request using the Translations Request Form available through STIC's NPL website on the USPTO intranet. Examiners should check the box for either a human (written) translation or machine translation. The Translations Service Center uses email as the sole delivery method for human (written) translations. The STIC maintains a listing of available machine translations tools on its website **https://usptogov.sharepoint.com/sites/09cdab00/**.

Examiners may also contact in-house translators directly via phone or email. To obtain immediate oral and partial human (written) translations, Examiners may walk-in to the Translations Service Center and meet directly with a Translator.

Equivalent versions of foreign specifications, that is, members of the same patent family, are often available in English or other languages known to the examiner. In addition, copies of previously translated documents are stored in the Translations Service Center. Before any translation request is processed, the staff of the Translations Service Center checks for equivalents or previous translations. The staff of STIC's Foreign Patent and Scientific Literature Service Center or the Translations Service Center can assist examiners in locating equivalents or abstracts. See MPEP § 901.06(a), STIC Services - Foreign Patent Services.

901.06 Nonpatent Publications [R-08.2012]

All printed publications may be used as references, the date to be cited being the publication date. See MPEP § 2128 - § 2128.02.

The Scientific and Technical Information Center (STIC) maintains an Electronic Information Center (EIC) or Library in each Technology Center. Copies of non-patent literature can be requested from these facilities. See MPEP § 707.05(e) for information on how to cite such publications.

901.06(a) Scientific and Technical Information Center (STIC) [R-07.2015]

The main Scientific and Technical Information Center (STIC) is located at the Remsen Building, Room 1D58, 400 Dulany Street, Alexandria, VA 22314. STIC maintains Electronic Information Centers (EICs) in each Technology Center (TC) whose mission is to assist patent examiners in the patent process by providing fast, accurate, prior art searches, document deliver services, the provision of foreign patent copies, translations of foreign documents, and access to non-patent literature in electronic format and in print.

35 U.S.C. 7 Library.

The Director shall maintain a library of scientific and other works and periodicals, both foreign and domestic, in the Patent and Trademark Office to aid the officers in the discharge of their duties.

Technical literature, foreign patent documents, and reference and online search services available in

STIC are all important resources for the patent examiner to utilize. These resources provide material which must be known or searched to determine whether claims of applications are directly anticipated and, therefore, unpatentable under the provisions of 35 U.S.C. 102. STIC handbooks, textbooks, periodicals, reports, and other materials assist examiners in deciding the question of patentable invention in cases in which the primary search indicates that there is some novelty as compared to any single reference in the art (35 U.S.C. 103). These resources enable the examiner to determine whether the features novel in the particular combination searched would be obvious to a person skilled in the art from the general state of knowledge as reflected in the technical literature.

I. STIC COLLECTIONS

A. Books (Electronic and Print)

Based on recommendations by patent examiners and subject area experts, STIC reviews, selects and purchases primarily English-language publications in all fields of applied technology. Collections of e-books, books in print, and trade catalogs are also purchased by STIC for permanent location in specific Technology Centers (TCs). For instance, the Design Patent Art Units have a great many manufacturers' catalogs. Books in print, and e-books may be ordered by examiners by contacting the STIC EIC in each TC. A request for a publication can be submitted by using the NPL Purchase Request Form which is available on the STIC NPL website. The physical location or database resource of all acquired publications are recorded in the STIC Online Catalog so that users will know where to look for a particular publication, be it on the shelf in the EIC or in particular electronic resource or database. All publications, regardless of location, are processed in STIC's Collection Management Service Center.

Reference works including encyclopedias, dictionaries, handbooks, and abstracting and indexing services are also available in print in the EIC. Many are available in electronic form and can be accessed via an electronic resource or database. EIC staff can assist examiners in finding information pertinent to the subject matter of a patent application. STIC does not circulate reference materials. Books in the reference collection are so labeled.

Requests for the purchase of books in print or electronic books are accepted at any time throughout the year, with subsequent purchase dependent on demonstrated need and availability of funds. If an electronic copy of a book in print exists STIC will purchase the electronic copy first.

B. Periodicals

STIC provides access to a large collection of print and electronic resources. Incorporated into the collection are a number of titles pertinent to the examination of design patent applications and titles of interest to nonexamining areas of the U.S. Patent and Trademark Office (USPTO).

Requests for the purchase of new subscription titles are accepted at any time throughout the year, with subsequent purchase dependent on demonstrated need and availability of funds.

Most periodicals are available electronically via the STIC NPL website. Current issues of select periodicals in print are arranged alphabetically and located on shelves near the reference collection in EICs and in Main STIC. Bound periodicals are interfiled with the book collection. Periodicals on microfilm and CD-ROM are housed in cabinets.

C. Foreign Patent Documents

The USPTO receives foreign patent documents through exchange agreements with almost all countries that print or otherwise publish their patent documents. This makes STIC's collection of foreign patent documents the most comprehensive in the United States.

The collection is located in Main STIC. The most current part of the collection is made available to examiners and the public through the USPTO's automated search tools which allow users to look up, view, and print documents. The earliest patent documents, as far back as 1617, and documents from smaller countries are found in the paper collection in the stacks or at remote sites.

Most foreign countries issue official patent and trademark journals corresponding to the *Official Gazette of the United States Patent and Trademark Office*. These journals are shelved under country name. Most countries issue name indexes; some also issue classified indexes. Indexes are shelved with the journals.

The official journals of a few countries include abstracts of the disclosures of the patents announced or applications published.

D. Special Collections

Although STIC still houses substantial print collections, the majority of the collections are now in the form of electronic books, journals, and foreign patents. Many rare and historical book collections have been digitized in order to provide electronic access and preserve the materials. The electronic books and journals are accessible via the STIC NPL website. To locate the NPL Services for Examiners on the USPTO intranet site, go to the Patent Examiner's Toolkit and click on Non-Patent Literature. Collections are arranged by TC and are also accessible by title via the STIC Online Catalog.

Each Electronic Information Center has a small print collection tailored to the art areas covered by the TC.

II. HOW TO LOCATE MATERIALS IN STIC

The STIC Online Catalog

The primary vehicle for locating e-books, e-journals, database and subscription resources, books in print and other materials is the STIC online catalog. The online catalog contains a record of all materials held by the STIC collections, including location, call number, and availability. Examiners can access the online catalog from their desktops via the Patent Examiner's Toolkit or via the STIC NPL website.

Print and electronic materials acquired by STIC are classified according to the Library of Congress classification system. Print materials including books and bound periodicals are intershelved in the stacks according to this classification system. New unbound periodical issues are shelved in a separate area of each EIC, in alphabetical order by title.

III. LOAN POLICY

All STIC materials in print except non-circulating items may be checked out at the Reference Desk in the EIC or Main STIC. Non-circulating material includes reference publications, journals in print, foreign patent documents, and microfilm. Examiners may use the Department of Commerce Libraries as well as other Federal Government libraries in the area. STIC's staff can answer questions regarding the accessibility and lending practices of other libraries. If books in print are needed from another library for official use, a request can be submitted using the Reference Delivery Request Form available via the STIC NPL website. The Reference Delivery Service Center will process the request on behalf of examiners and deliver the reference upon receipt.

IV. STIC SERVICES

A. Reference Services

STIC's Reference Desk staff assists examiners in the use of the STIC services and its resources. Upon request, they provide guidance on finding information in the electronic and print collections, and updates on the status of service requests. If any problems are encountered in locating materials or finding answers to informational needs, please check with the staff. They are ready and willing to assist. Queries may be made in person or by using STIC Reference Desk contact resources by phone, email, instant message or simply using the Ask-STIC chat-room.

B. Online Text/Prior Art and Bibliographic Searches

STIC staff located in the EICs in each TC perform prior art and bibliographic searches for examiners using commercial databases (CDBs) and subscription resources STIC staff access many CDBs such as ProQuest Dialog, Scientific and Technical Network (STN), Questel-Orbit, IP.com and others. When they are identified as meeting the needs and requirements of the Office, new database vendors are added. A

list of the databases offered by each vendor is available on the vendors' websites.

CDBs extensively cover the fields of knowledge examined by USPTO, and make it possible for expert search staff to retrieve bibliographic information e.g. title, author, publication date, source, language etc., and may also include abstracts, chemical structures, and DNA sequences. Often the full text of the articles, depending on the database can be provided in PDF or other electronic formats.

CDBs and other subscription resources provide access to non-patent literature that is typically not available on the Internet, and require expert knowledge in order to use special indexing, perform complex chemical substance and structure searches, and classification search systems that improve retrieval. Examiners can submit a request for a prior art/text search by using the Text/Regular Form on the STIC NPL website. For bibliographic searches, examiners may submit a request for a legal/litigation search by using the Legal/Litigation Form. Patent Family searches may be requested by using the Text/Regular Form or contacting the Reference Desk staff in the EIC. Completed searches are emailed to the examiners.

Online searching of nucleic and amino acid sequences is conducted by the staff of the STIC EIC for TC1600 through the use of an in-house computer system developed for this purpose. On an as-needed basis, introductory classes are conducted by STIC staff to assist examiners in understanding the sequence search results. Examiners can also conduct this search on their own via the in-house ABSS search system.

Examiners may also conduct searches of online commercial databases independently of STIC staff. Once approval for a commercial database login and password from the supervisory patent examiner (SPE) has been obtained, training by the vendor is provided through STIC's Digital Resources Division. Individual assistance in searching these databases is also available from the Electronic Information Centers (EIC) staff, especially for searching chemical structures and DNA sequences.

C. Foreign Patent Services

The staff of the Foreign Patents Service Center of the STIC is available to assist with any problem or informational need regarding foreign patent document retrieval or foreign patent documents. These services are also available to examiners in the Electronic Information Centers.

Online patent family searches are performed for patent examiners by the Foreign Patents Service Center. The services provided include: identification of English-language or preferred-language equivalents; determination of priority dates and publication dates; searches by inventor name or abstract number; other patent family and bibliographic document retrieval searches; and foreign classification information.

Examiners who choose to perform their own foreign patent searches after receiving appropriate training through the Office of Patent Training can consult foreign patent experts for difficult document retrieval searches.

The staff of the Foreign Patents Service Center can supplement the online document retrieval searching effort with manual searches of foreign patent journals, including *Official Gazette(s)*, patent concordances, and/or indexes. The staff also provides training in the use of the Foreign Patents Access System (FPAS) in EAST/WEST and the use of the foreign patent collections.

SPECIAL NOTE: Members of the public can order copies of foreign patent documents from the Foreign Patents Service Center.

D. Translations

Examiners may consult the translators in the Translations Service Center of STIC for oral assistance in translating foreign language patents and foreign document sources that may be possible references for applications being examined. Oral translations are performed for the major European languages and for Japanese. Examiners may also request written translations of pertinent portions of references being considered for citation or already cited in applications. Full translations are also made

upon request. Written translations can be made from virtually all foreign languages into English. See also MPEP § 901.05(d).

The Translations Service Center maintains a database of all previously completed document translations. Patent translations are indexed by country and patent number; articles are indexed by language and author or title. Any copies of translations coming to examiners from outside the Office should be furnished to the Translations Service Center so that it may make copies for its files.

E. Interlibrary Loans

When needed for official business purposes, STIC will borrow from other libraries materials not available in-house. Requests can be submitted to the STIC facility in an examiner's TC or via the electronic form on the STIC NPL website. STIC has borrowing agreements with libraries throughout the U.S.

F. On-Site Photocopying

For the convenience of the Examining Corps, photocopy machines are available for employee use in STIC. These are to be used for photocopying STIC materials which do not circulate, or for materials which examiners do not wish to checkout.

G. Obtaining Publication Dates

Requests pertaining to the earliest date of publication or first distribution to the public of publications should be made to the STIC EIC facility in the examiner's TC. For U.S. publications, the staff can obtain the day and month of publication claimed by the copyright owner. The same information can be obtained for foreign publications through correspondence although it will take a little longer.

H. Tours

Special tours of the STIC and its service centers can be arranged for examiners or for outside groups by contacting the STIC EIC facility in the examiner's TC.

901.06(b) Borrowed Publications [R-07.2015]

See MPEP § 901.06(a), STIC Services - Interlibrary Loans.

901.06(c) Alien Property Custodian Publications [R-07.2015]

Applications vested in the Alien Property Custodian during World War II were published in 1943 even though they had not become patents.

Care must be taken not to refer to these publications as patents; they should be designated as A.P.C. published applications.

An A.P.C. published application may be used by the examiner as a basis for rejection only as a printed publication effective from the date of publication, which is printed on each copy.

The manner of citing one of these publications is as follows: A.P.C. Application of ....., Ser. No. ....., Published .....

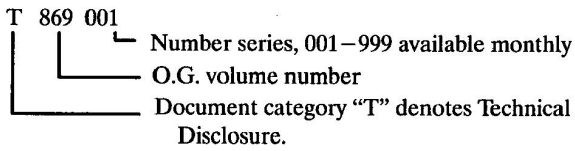
The Patent Search Room contains a complete set of A.P.C. published applications arranged numerically in bound volumes. The U.S. A.P.C. bib data is located on the following database (2964 total): **http://db.library.queensu.ca/apcdocuments/**.

901.06(d) Abstracts, Abbreviatures, and Defensive Publications [R-08.2017]

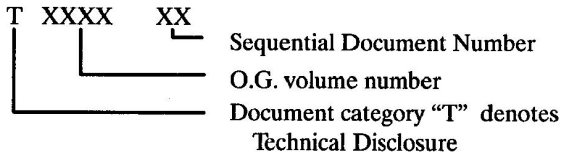
Abstracts and Abbreviatures are U.S. Patent and Trademark Office publications of abandoned applications. Defensive Publications (the O.G. defensive publication and search copy) are U.S. Patent and Trademark Office publications of provisionally abandoned applications wherein the applicant retains their rights to an interference for a limited time period of 5 years from the earliest effective U.S. filing date. On May 8, 1985, the U.S. Patent and Trademark Office stopped accepting Defensive Publication requests and began accepting applications for Statutory Invention Registrations (SIRs), although there was an overlap period where both Defensive Publications and Statutory Invention Registrations were processed; see MPEP § 711.06

and § 711.06(a). Statutory Invention Registrations replaced the Defensive Publication program. However, requests for a statutory invention registration filed on or after March 16, 2013 will not be processed, as the provisions of pre-AIA 35 U.S.C. 157 governing Statutory Invention Registrations were repealed. See MPEP § 1101. Statutory Invention Registrations are numbered with document category "H," beginning with "H1." Defensive Publications and Statutory Invention Registrations are included in subclass lists and subscription orders.

Distinct numbers are assigned to all Defensive Publications published December 16, 1969 through October 1980.



For Defensive Publications published on and after November 4, 1980, a different numbering system is used.



A conversion table from the application serial number to the distinct number for all Defensive Publications published before December 16, 1969 appears at 869 O.G. 687. The distinct numbers are used for all official reference and document copy requirements.

901.07 Patent Family Information [R-07.2015]

Patent family information is available at the U.S. Patent and Trademark Office (Office) primarily through commercial databases. See MPEP § 901.05 regarding patent family. Examiners have access to this information either directly through the automated search tools such as the Examiner's Automated Search Tool (EAST) and the Web-based Examiner Search Tool (WEST) or indirectly through the search services of the Scientific and Technical Information Center (STIC). Additionally, Examiners may utilize the Common Citation Document website accessible through the Examiner's Toolkit to obtain patent family information.

I. AVAILABLE DATABASES

Derwent's World Patents Index (WPI) and International Patent Documentation Center (INPADOC) are two databases used for retrieving foreign patent information.

The WPI database is loaded in-house at the Office and is integrated with the Office's automated search system. WPI in-house is used whenever abstracts are needed or when searches in addition to publication date or patent family are required, such as searches on inventor name or IPC (International Patent Classification). WPI in-house is also the first choice for searches for publication dates or patent families because of its ease of use and low cost.

INPADOC is used for quick searches for publication dates or patent families. The Office enjoys cost effective rates for INPADOC due to an agreement between the Office and the International Patent Documentation Center (now part of the European Patent Office) negotiated several years ago. The agreement applies only to INPADOC as accessed directly on the INPADOC computer in Austria, not to INPADOC as available on other commercial database systems such as ORBIT, DIALOG, or STN.

II. ACCESS TO FOREIGN PATENT INFORMATION

Patent examiners may directly search WPI in-house or INPADOC or both.

Examiners may also request foreign patent searches through STIC. For STIC services, see MPEP § 901.06(a), paragraph IV.

901.08 Global Dossier Public Access [R-08.2017]

Global Dossier Public Access provides secure, online access to the file histories of related applications from participating IP Offices. This includes all international application filed under the Patent Cooperation Treaty (PCT) as well as patent applications from World Intellectual Property Organization-Centralized Access to Search and Examination (WIPO-CASE) participating offices. By using this service, examiners will be able to view Office Actions (along with machine translations), citations, and classification data for those applications. This service also provides Office Action Indicators to help examiners identify applications that contain office actions, a Collections View for saving documents and applications for review later on in the session, and the ability to download the documents in an application. See **www.wipo.int/case/en/** for additional information regarding WIPO-CASE.

902 Search Tools and Classification Information [R-07.2022]

There are multiple classification systems used throughout the international patent system. These include the Cooperative Patent Classification System (CPC), U.S. Patent Classification System (USPC), the International Patent Classification System (IPC), and the Locarno International Classification (Locarno). As of January 1, 2013, the USPTO moved from using the USPC system to the CPC system for classification of pending utility applications. All U.S. utility patents and U.S. utility Patent Application Publications published after December 31, 2014 no longer receive classifications within the USPC. The USPC is now a static searchable database for all utility areas. Only U.S. design and plant patents and U.S. plant patent application publications continue to receive classification within the USPC.

902.01 Classification Manual for the U.S. Patent Classification System [R-07.2022]

The U.S. Patent Classification System is a static system and is no longer updated for the utility classes. The USPC remains active for the plant and design classes.

The United States Patent Office (the Office) maintains an electronic classification manual for the U.S. Patent Classification System (USPC). The complete manual is available to USPTO personnel from the Classification Home Page (**https://ptoweb.uspto.gov/patents/classification-resources/**), which is accessible from the desktop via the Patent Examiner's Toolkit. The Manual of Classification is also available via the Internet at **www.uspto.gov/SearchClassification**, however The Manual of Classification will no longer be updated after December 31, 2014. See MPEP § 905 *et seq.* for information regarding the Cooperative Patent Classification System.

Each class has a title descriptive of its subject matter, is identified by a class number, and is subdivided into a number of subclasses. Each subclass also has a descriptive title, is identified by a subclass number, and the subclass number is an integral number that may contain a decimal portion and/or alpha characters. A complete identification of a subclass requires both the class and subclass number and any alpha or decimal designations; e.g., 417/161.1A identifies Class 417, Subclass 161.1A.

The Manual of Classification for the USPC system contains ordered arrangements of all class and subclass titles, the ordered arrangements are referred to as class schedules. The class and subclass titles are brief and are as suggestive as possible of the subject matter included. Therefore, it is best not to depend exclusively upon titles to explain the subject matter encompassed by a class and subclass but to refer also to the respective definitions and notes. If a search is to be expeditious, accurate, and complete, the Manual of Classification should be used only as a key to the class or subclass definition and appended notes.

The Manual of Classification for the USPC system has the following parts:

(A) *Overview of the U.S. Patent Classification System*.

(B) *Classes Within the U.S. Classification System Arranged by Related Subject Matter:* A hierarchical arrangement of class titles organized into four main groups by related subject matter. Only as a last resort should this hierarchical arrangement of class titles, be used to determine document placement, i.e., when none of the other classification criteria, such as comprehensiveness, etc., allow placement. This part also includes an exact hierarchical listing of the synthetic resin and chemical compound classes.

(C) *Classes Arranged by Art Unit (CAAU):* A list, in numerical order, by art unit indicating the classification(s) assigned to each.

(D) *Classes Arranged Numerically With Art Unit and Search Room Locations (CAN):* A list of classifications in numerical order by class number giving the class title, the art unit to which the art is assigned, and the examiner search room in which the art can be found.

(E) *Classes Arranged in Alphabetical Order (CAA):* A list of classes in alphabetical order by class title with associated class numbers.

(F) *Class Schedules:* Class schedules for utility patent, design, and plant classes.

902.01(a) Index to the U.S. Patent Classification System [R-08.2012]

The Index to the U.S. Patent Classification System (USPC) is an alphabetic listing of technical and common terms referring to specific classes and subclasses of the USPC. The index is used as an initial entry into the system and should not be considered exhaustive. All appropriate class schedules should be scanned for specifically related subclasses, and the definitions and associated notes of the pertinent classifications should also be reviewed, even when the citation found in the Index appears to be restricted to a specific subject matter area.

The Index is regularly updated. Suggestions or changes to the Index are encouraged and should be directed to the Technology Center (TC) classification contact in the TCs.

The Index is available online to USPTO personnel from the Classification Home Page – USPC Index. The Classification Home Page (**http://ptoweb:8081/**) is accessible from the desktop via the Patent Examiner's Toolkit.

902.02 Class and Subclass Definitions in USPC [R-07.2022]

All of the classes within USPC have definitions.

Definitions state the subject matter of the classes and subclasses in much more detail than it is possible to state in the brief class and subclass titles. A study of the definitions is essential to determine the proper classification of subject matter within the U.S. Patent Classification System (USPC).

All classes and subclasses (class definitions) in the USPC are available online to USPTO personnel from the Classification Home Page under the heading Search Classification Data. The Classification Home Page (**https://ptoweb.uspto.gov/patents/classification-resources/**) is accessible from the desktop via the Patent Examiner's Toolkit. The class definitions are archived in portable document formats (PDFs) to CD-ROM every June and December.

It should be noted that classification orders frequently affect existing definitions. Personal sets of definitions used by examiners should be periodically revised to reflect these changes. Classification Orders are available online to USPTO personnel from the Classification Home Page under the heading Classification Reports. The Classification Home Page is accessible from the desktop via the Patent Examiner's Toolkit.

902.02(a) Definition Notes in USPC [R-07.2015]

Many of the definitions have accompanying notes. These notes are of two types: (A) notes that supplement definitions by explaining terms or giving examples, and (B) notes referring to related disclosures located in other classes or subclasses.

The latter notes are termed "See or Search" notes and are helpful in explaining the limits of a class or subclass. They generally state the relationship to, and difference from, other identified subject matter collections. Each "See or Search" note helps a user reach a decision either to include or exclude an area containing relevant subject matter.

Search notes are not exhaustive and do not limit the search but suggest additional fields of search. Additionally, since a search note that applies to a particular subclass is rarely repeated for subclasses indented thereunder, it is advisable to review the search notes of all parent subclasses.

902.02(b) [Reserved]

902.03 Classification Information [R-07.2022]

U.S. utility patents and U.S. utility patent application publications published after December 31, 2014, do not receive a designated U.S. patent classification. U.S. design and plant patents and U.S. plant patent application publications receive a designated U.S. patent classification. Current classification information for U.S. patents is available from the sources indicated below.

902.03(a) Patent Classification Home Page on the Internet [R-07.2022]

The Office of Patent Classification Home Page address on the Internet is **www.uspto.gov/Classification**. The site is the clearinghouse for classification information published in hyper-text mark-up language (HTML) and Adobe Acrobat portable document format (PDF) by the U.S. Patent and Trademark Office (USPTO). The site includes the following: (A) the Index to the U.S. Patent Classification system (USPC) (linked from "Index to USPC" under the "United States Classification (USPC) system" menu); (B) class definitions (linked from "USPC Class Numbers and Titles"); and (C) class schedules (linked from "USPC Class Numbers and Titles"). The site integrates with the USPTO Patent Full-Text and Image Database site by allowing a search of a subclass by clicking on a patent icon in the classification schedules and definitions which generates a search result in the USPTO Patent Full-Text and Image Database. The USPTO Patent Full-Text and Image Database provides full-text of all US patents issued since January 1, 1976, and full-page images of each page of every US patent issued since 1790. Therefore, it is possible to see every patent in a subclass by browsing the classification schedules using the Classification Home Page in combination with the USPTO Patent Full-Text and Image Database.

902.03(b) Patent Classification Home Page on the USPTO Intranet [R-07.2022]

The address for the Patent Classification Home Page on the USPTO intranet is **https://ptoweb.uspto.gov/patents/classification-resources/**. The Classification Home Page is also accessible from the desktop via the Patent Examiner's Toolkit. The site is the clearinghouse for classification information by the U.S. Patent and Trademark Office (USPTO). Examiners and the public are provided with access to identical information for the Index, schedules, and definitions.

The Intranet Classification Home Page site also includes links to international information such as CPC schedules, IPC Concordance, IPC Schedules, IPC Catchword Index, WIPO Handbook on Industrial Property Information and Documentation, and to national (U.S.) information such as Overview of the Classification System, Classification Guides and Bulletins, and the Patent Classification Search Page.

The Patent Classification Retrieval System (PCRS) provides Original (OR) and Cross-Reference (XR) classification information for individual patents and listings of patents contained in subclasses. This data is updated bimonthly with new issues, withdrawn patents and reclassifications.

902.03(c) [Reserved]

902.03(d) [Reserved]

902.03(e) Automated Search Tools: EAST, WEST, and SEARCH [R-07.2022]

The automated search tools on examiners' desktop computers include the Examiner's Automated Search Tool (EAST), the Web-Based Examiner Search Tool (WEST), the Patents End-to-End Search tool (SEARCH) and the Foreign Patent Access System (FPAS). EAST, WEST, and SEARCH provide examiners with access to the: (A) full text of U.S. published applications since 2001; (B) full text of U.S. patents granted since 1970; and (C) optically scanned full text of U.S. patents granted 1920-1970. Additionally, EAST, WEST, and SEARCH each provide current classification information and images for all U.S. published applications and patents. Images are available for foreign patent documents, and English language abstracts are available for many foreign patent documents published since 1978 using the automated search tools. Specific instructions for gaining access to the various documents available using the automated search tools can be found on the EAST, WEST, SEARCH and BRS Search Strategy webpages on the intranet, available on the examiners' desktop computers.

The EAST and WEST products are also available to users in the Patent Search Room at the USPTO.

903 Classification in USPC [R-07.2022]

Utility patents, applications, and patent application publications receive a classification designation under the Cooperative Patent Classification (CPC) system. Only design and plant applications/patents and plant application publications receive classification designations under USPC. See MPEP § 905 for information on CPC.

903.01 Statutory Authority [R-08.2012]

The statutory authority for establishing and maintaining a classification system is given in the following statute, which states:

35 U.S.C. 8 Classification of patents.

The Director may revise and maintain the classification by subject matter of United States letters patent, and such other patents and printed publications as may be necessary or practicable, for the purpose of determining with readiness and accuracy the novelty of inventions for which applications for patent are filed.

903.02 Basis and Principles of Classification in USPC [R-07.2022]

Many of the principles that form the basis of classification within USPC used in the U.S. Patent and Trademark Office are set forth in the "Examiner Handbook to the U.S. Patent Classification System" which can be accessed from either the intranet on the Classification Home Page (**http://ptoweb.uspto.gov/patents/classification-resources/**) or the internet on the Office of Patent Classification home page (**www.uspto.gov/Classification**). Any questions not covered in this handbook can be directed to the Office of Patent Classification.

903.02(a) [Reserved]

903.02(b) Scope of a Class in the USPC [R-07.2015]

In using any classification system, it is necessary to analyze the organization of the class or classes to be included in the search.

The initial analysis should determine which one or ones of the several types of subject matter (manufacture, art, apparatus, or stock material) are contained in the class being considered.

Further, relative to each type of subject matter, it is necessary to consider each of the various combinations and subcombinations set out below:

Basic Subject Matter Combined with Feature for Some Additional Purpose. The added purpose is in excess of the scope of the subject matter for the class, as defined in the class definition; e.g., adding a sifter to a stone crusher which gives the added function of separating the crushed stone.

Basic Subject Matter Combined with Perfecting Feature. Features may be added to the basic subject matter which do not change the character thereof, but do perfect it for its intended purpose; e.g., an overload release means tends to perfect a stonecrusher by providing means to stop it on overload and thus prevent ruining the machine. However, this perfecting combined feature adds nothing to the basic character of the machine.

Basic Subject Matter. The combination of features necessary and essential to the fundamental character of the subject matter treated; e.g., a stonecrusher requires a minimum number of features as essential before it can function as such.

Subcombinations Specialized to Basic Subject Matter. Each type of basic subject matter may have subcombinations specialized to use therewith; e.g., the crushing element of a stonecrusher.

Subcombinations of General Utility. Each type of basic subject matter may have subcombinations which have utility with other and different types of subject matter; e.g., the machine elements of a stonecrusher. Subcombinations of this character usually are provided for in some general class so that the examiner should determine in each instance where they are classified.

903.03 Availability of Foreign Patents [R-07.2022]

Many foreign patent documents received in the Office before October 1, 1995 were placed in the shoes in the Technology Center (TCs), according to either the United States Patent Classification System (USPC) or, in relatively few instances, the International Patent Classification (IPC) system. Foreign patents received by the Office after October 1, 1995 are available on the USPTO's automated search systems, the Foreign Patent Access System (FPAS), Internet sites, and the Scientific and Technical Information Center (STIC) collections.

If the examiner desires to update the USPC classification of a foreign patent by changing, canceling, or adding copies, they should forward the patent (or bibliographic information) to their supervisory patent classifier with a request for the desired transaction attached.

The Foreign Patents Service Center manages Main STIC. STIC's collections are international in scope and include foreign patents, non-patent literature, designs, trademarks, and legal information. There is an assortment of resources which reflect the information needs of examiners and researchers working in various fields of science and technology. The staff is experienced in foreign patent data retrieval, patent family searches, and document retrieval services for non-patent literature in the STIC collections.

Examiners confronted with language problems in classifying foreign-language patents may call upon the Translations Service Center of STIC for assistance (see MPEP § 901.06(a)). In addition, the Translations Service Center retains copies of translated foreign patents in the database.

903.04 Classifying Applications for Publication as a Plant Patent Application Publication in USPC [R-07.2022]

Most patent applications filed on or after November 29, 2000, are published as a patent application publication pursuant to 35 U.S.C. 122(b), unless certain exceptions apply. See MPEP § 1120.

U.S. utility patents and U.S. utility patent application publications published after December 31, 2014 do not receive classifications within the USPC and only receive classification designations within the CPC. Only U.S. design and plant patents and U.S. plant patent application publications continue to receive classifications within the USPC. See MPEP § 905 for information on CPC.

Plant patent application publications are given a primary classification (equivalent to an original

classification), and may also be given a secondary classification (equivalent to a cross reference). While there may be only one primary classification for a single plant patent application publication, there may be any number of secondary classifications. The selection of a primary classification of a plant patent application publication is based on the application's main inventive concept using the claim as a guide. A primary classification could be any U.S. class/subclass (except cross reference art collections, digests and foreign art collection subclasses). A secondary classification is based on other inventive concepts (mandatory) or valuable disclosure (discretionary), and may be any U.S. class/subclass (including cross reference collections and digests, but excluding foreign art collection subclasses). The classification of a plant patent application publication is printed on the front page of the publication.

At least 9 weeks prior to the projected publication date, applications are classified using programs designed to enable entry of certain data required for publication of patent applications. Applications are classified by giving each application at least a primary classification and an international classification. The suggested international classification(s) corresponding to each assigned U.S. classification is provided. In addition, if a figure is to be published, the figure is selected at the time of classification.

903.05 Addition, Deletion, or Transfer of U.S. Design Patents by USPC Classification [R-07.2022]

Requests for addition, deletion, or transfer of official copies of U.S. patents may be carried out by using the Patent Post Publication Classification Manager, which are available online from the Classification Home Page under the "Additional Resources" heading. The Classification Home Page is accessible from the desktop via the Patent Examiner's Toolkit. The Classification Manager tool is available only for design patents.

Using these tools, examiners can request the following transactions:

(A) Add any classification(s) from the U.S. Patent Classification system as a cross-reference (XR) classification to a patent or a secondary classification to a patent application publication.

(B) Delete XR classification(s) or secondary classification assigned to the Technology Center (TC) of the person requesting the deletion.

(C) Change original classifications (ORs) or primary patent application publication classification to a classification in the TC of the person requesting the change.

(D) Add or delete any International Patent Classification system (IPC) classification to a patent.

903.06 Harmonized Subclasses [R-07.2015]

The U.S. Patent Classification System (USPC) includes subclasses that have been harmonized with subclasses from the European Patent Office (EPO) and the Japan Patent Office (JPO). Subclasses that have been harmonized have a designation of "EPO," "JPO," or "EPO/JPO" in parentheses following the subclass title to indicate if the subclass has been harmonized with the EPO or JPO or with both systems.

903.07 Classifying and Cross-Referencing Design and Plant Applications at Allowance [R-07.2022]

U.S. utility patents and U.S. utility patent application publications published after December 31, 2014 do not receive classifications within the USPC and only receive classification designations within the CPC. Only U.S. design and plant patents and U.S. plant patent application publications continue to receive classifications within the USPC.

When an application is passed to issue, it is the duty of each primary examiner to personally review the original classification and cross-referencing made by their assistants in the issuing classification boxes on the Issue Classification sheet. This form provides space for the full name of the "Primary Examiner" to show that the review has been made. An examiner with full signatory authority who acts personally on an application and sends it to issue should stamp and sign their name on the Issue Classification sheet ONLY in the "Primary Examiner" space.

An application, properly classified at the start of examination, may be classified differently when it is ready for allowance. The allowed claim should be reviewed in order to determine the subject matter covered thereby. It is the disclosed subject matter covered by the allowed claim that determines the original and any mandatory cross-reference classification of U.S. patents.

After all mandatory classifications have been determined, the classification to be designated as the original (OR) is determined. If all mandatory classifications are in the same class, the original classification is the mandatory classification that, looking at the schedule from the top down, is the most indented subclass array in which any classifications are assigned, in certain circumstances (e.g., the genus-species array), however, modifications of this rule may apply. See the "Examiner Handbook to the U.S. Patent Classification System".

If the mandatory classifications are in different classes, the original classification is determined by considering, in turn, the following criteria:

(A) selection based on priority of statutory category of invention,

(B) selection based on superiority of types of subject matter, and

(C) selection among classes in the "related subject" listing at the front of the manual of classification.

It should be noted that the criteria, *supra*, may be superseded by

(A) special circumstances,

(B) prior placement of patents for a particular body of art, or

(C) particular class lines and class notes.

Once the controlling class is determined, the original classification, looking at the schedule from the top down, is the mandatory classification that is the most indented subclass of the first subclass array in which any classifications are assigned.

For a more complete discussion of this subject, see the "Examiner Handbook to Classification" which is available online to USPTO personnel from the Classification Home Page under the heading "General Training". The Classification Home Page (**https://ptoweb.uspto.gov/patents/classification-resources/**) is accessible from the desktop via the Patent Examiner's Toolkit.

Once the original classification is determined, all remaining mandatory classifications are designated as cross-references, as are any additional discretionary classifications that the examiner wishes to apply to the patent.

The examiner must complete the IFW issue classification form to indicate the class and subclass in which the patent should be classified as an original and also the classifications in which it should appear as a cross-reference. The examiner should be certain that all subclasses into which cross-references are placed are still valid.

All examiners must include alpha subclass designators in the issuing classification boxes on the IFW issue classification form at the time of issue when appropriate. This applies to both the original classification and the cross-reference classification. Any time that a patent is being issued in or cross-referenced to a subclass containing alpha subclasses, the alpha designation for the proper alpha subclass must be included. No other designation is permissible. Inclusion of only the numeric designation of a subclass which includes an alpha subclass designation is an incomplete and improper entry. A numeric subclass from which alpha subclasses have been created is designated with an "R" (denoting residual), and if the patent does not fit an indented alpha subclass, the "R" designation must be included. It is permissible to place multiple copies of a patent into a single set of alpha subclasses.

Digests and cross-reference art collections should also be included in the issuing classification boxes on the IFW issue classification form, but the original classification must never be a digest or cross-reference art collection. The indication for a copy of a patent in a digest or cross-reference art collection must be in the cross-reference area of the issuing classification boxes. A digest must be

identified by class number, alpha characters DIG, and appropriate digest number.

U.S. patents cannot be classified in subclasses beginning with "FOR," since these are exclusively for foreign patents.

APPLICATIONS IN ISSUE

Where an official classification order affects an application already passed to issue, the Office of Patent Classification oversees any necessary changes. Patents issuing from applications which already have been sent to the printer will be reclassified.

903.07(a) Cross-Referencing Design and Plant Applications — Keep Systematic Notes During Prosecution [R-07.2022]

Throughout the examination of a design or plant application, systematic notes should be kept as to cross-references needed either due to claimed or unclaimed disclosure. Examiners handling related subject matter should be consulted during prosecution (whether they handle larger unclaimed combinations or claimed or unclaimed, but disclosed, subcombinations), and asked if cross-references are needed.

Each consultation involving a question of the propriety of the classification of subject matter and/or the need for a cross-reference must be recorded in the SEARCH NOTES box on the file wrapper and must include: the name of each examiner consulted, the date that the consultation took place, and the results of the consultation including the consulted examiners' or examiner's indication of where claimed subject matter is properly classified and where subject matter disclosed but unclaimed is properly classified and whether or not a cross-reference is needed.

A cross-reference MUST be provided for all CLAIMED disclosure where possible and inserted in the issuing classification boxes at time of issue.

903.08 [Reserved]

903.08(a) [Reserved]

903.08(b) [Reserved]

903.08(c) [Reserved]

903.08(d) [Reserved]

903.08(e) [Reserved]

903.09 [Reserved]

903.09(a) [Reserved]

904 How to Search [R-07.2022]

The examiner, after having obtained a thorough understanding of the invention disclosed and claimed in the nonprovisional application, then searches the prior art as disclosed in patents and other published documents, i.e., nonpatent literature (NPL). Any document used in the rejection of a claim is called a reference. An inventor name search should be made to identify other applications and/or patents which may be applicable as references for double patenting rejections. See MPEP § 804.

In all continuing applications, the parent applications must be reviewed by the examiner for pertinent prior art. The examiner must consider prior art which was cited and considered in the parent application. See MPEP §§ 609.02 and 2001.06(b). Where the cited prior art of a parent application has been reviewed, this fact should be made of record in accordance with the procedure set forth at paragraph (J) of MPEP § 719.05, subsection II.A. The examiner must also review the file wrapper history and prior art contained in certain proceedings and specific documents in related PTAB post-grant proceedings. See MPEP § 904.04. For national stage applications filed under 35 U.S.C. 371, the examiner will consider the documents cited in an international search report 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

application file. See MPEP § 609.03. The first search should cover the invention as described and claimed, including the inventive concepts toward which the claims appear to be directed. It should not be extended merely to add immaterial variants. The examiner's first Office action on the merits of an application relies on references identified in this initial search.

Following the first Office action, the examiner need not ordinarily make a second search of the prior art, unless necessitated by amendments to the claims by the applicant in a reply to the first Office action, except to check to determine whether any reference which would appear to be substantially more pertinent than the prior art cited in the first Office action has become available subsequent to the initial prior art search.

In the first action on the merits of an application, the examiner must complete the "Search Notes" form to include the classification locations of domestic and foreign patents, abstract collections, and publications in which the search for prior art was made. Other information collections and sources in which the search for prior art was made must also be identified by the examiner. The examiner must also indicate the date(s) on which the search was conducted. Note MPEP § 719.05.

In subsequent actions, where the search is brought up-to-date and/or where a further search is made, the examiner must indicate on the IFW search notes form that the search has been updated and/or identify the additional field(s) of search. See MPEP § 719.05. Any search updates should include all of the relevant or pertinent databases and the search queries and classifications employed in the original search.

904.01 Analysis of Claims [R-08.2012]

The breadth of the claims in the application should always be carefully noted; that is, the examiner should be fully aware of what the claims do *not* call for, as well as what they do require. During patent examination and reexamination, the claims are given the broadest reasonable interpretation consistent with the specification. See *In re Morris*, 127 F.3d 1048, 44 USPQ2d 1023 (Fed. Cir. 1997) and *In re NTP Inc.*, 654 F3d 1279, 99 USPQ 1481 (Fed. Cir. 2011). See MPEP § 2111 - § 2116.01 for case law pertinent to claim analysis.

904.01(a) Variant Embodiments Within Scope of Claim [R-07.2022]

Frequently, a claim includes within its breadth or scope one or more variant embodiments that are not disclosed in the application, but which would anticipate or render obvious the claimed invention if found in a reference. The claim must be so analyzed and any such variant encountered during the search should be recognized.

For any claim capable of such treatment (e.g., a machine or other apparatus), the subject matter as defined by the claim may be sketched or diagrammed in order to clearly delineate the limitations of the claim. Two or more sketches, each of which is as divergent from the disclosure as is permitted by the claim, will assist the examiner in determining the claim's actual breadth or scope. However, an applicant will not be required to submit such sketches of claim structure. *In re Application filed November 16, 1945*, 89 USPQ 280, 1951 C.D. 1, 646 O.G. 5 (Comm'r Pat. 1951).

904.01(b) Equivalents [R-08.2012]

All subject matter that is the equivalent of the subject matter as defined in the claim, even though different from the definition in the claim, must be considered unless expressly excluded by the claimed subject matter. See MPEP § 2181 - § 2184 for a discussion of equivalents when a claim employs means or step plus function terminology.

904.01(c) Analogous Arts [R-08.2012]

Not only must the art be searched within which the invention claimed is classifiable, but also all analogous arts must be searched regardless of where the claimed invention is classified.

The determination of what arts are analogous to a particular claimed invention is at times difficult. It depends upon the necessary essential function or utility of the subject matter covered by the claims, and not upon what it is called by the applicant.

For example, for search purposes, a tea mixer and a concrete mixer may both be regarded as relating to the mixing art, this being the necessary function of each. Similarly a brick-cutting machine and a biscuit cutting machine may be considered as having the same necessary function. See MPEP § 2141.01(a) for a discussion of analogous and nonanalogous art in the context of establishing a *prima facie* case of obviousness under 35 U.S.C. 103. See MPEP § 2131.05 for a discussion of analogous and nonanalogous art in the context of 35 U.S.C. 102.

904.02 General Search Guidelines [R-07.2022]

In the examination of an application for patent, an examiner must conduct a thorough and complete search of the prior art. A search is considered thorough when all areas with the highest probability of finding prior art relevant to the invention as it is claimed and described in the specification are identified for search. Planning a thorough search of the prior art requires three distinct steps by the examiner: (A) identifying the field of search; (B) selecting the proper tool(s) to perform the search; and (C) determining the appropriate search strategy for each search tool selected. A search is considered complete when each of the identified areas are fully considered.

When determining the field of search, three reference sources must be considered - domestic patents (including patent application publications), foreign patent documents, and nonpatent literature (NPL). A thorough and complete search will include the identification and review of the areas within these sources with the highest probability of including prior art, thus none of these sources can be eliminated from the search unless the examiner has and can justify a reasonable certainty that no references, more pertinent than those already identified, are likely to be found in the source(s) eliminated. The search areas should cover the claimed subject matter and should also cover the disclosed features related to the inventive concept of the claims which might reasonably be expected to be claimed. The field of search should be prioritized, starting with the area(s) where the invention would most likely be found in the prior art.

Having determined the field of search, the examiner should then determine what search tools should be employed in conducting the search. Examiners are provided access to a wide variety of both manual and automated search tools. Choice of search tools is a key factor in ensuring that the most relevant prior art is found during the search. The choice of search tools to be used is based on the examiner's knowledge of the coverage, strengths and weaknesses of the available search tools that are appropriate for use in an examiner's assigned art. For example, a search tool may cover foreign patent documents; but, if that coverage does not meet the examiner's current search needs, this should be taken into consideration by the examiner who may choose to employ other search tools in order to remedy the deficiency.

Search tool knowledge is particularly important for examiners in arts (e.g., very active, high technology) where patent documents may seriously lag behind invention and, consequently, represent a reference source of limited value. These examiners must take special care to ensure that their searches include consideration of NPL and employ the effective use of tools specialized to cover NPL pertinent to their search needs.

Search needs in some technologies (e.g., chemical structures, DNA sequences) are very specialized and can only be met through additional use of specific search tools specially constructed and maintained to respond to those needs. These tools cover all three reference sources - domestic patents (including patent application publications), foreign patent documents, and NPL.

In recognition that there are many available NPL search tools and their use is often complex, examiners have been provided and are encouraged to use the services of trained professional online search personnel located in the Technology Centers' EICs for NPL searching. See MPEP § 901.06(a) for services available in STIC.

In crowded, highly developed arts where most claimed inventions are directed to improvements, patent documents, including patent application publications, may serve as the primary reference source. Search tool selection in such arts may focus

heavily on those providing patent document coverage.

Automated search tools covering patent documents usually provide both a classified and text search capability. Text search can be powerful, especially where the art includes well-established terminology and the search need can be expressed with reasonable accuracy in textual terms. However, it is rare that a text search alone will constitute a thorough search of patent documents. Some combination of text search with other search criteria (e.g., classification, chemical structure, or molecular sequence) would be a normal expectation in most technologies.

Examiners will recognize that it is sometimes difficult to express search needs accurately in textual terms. This occurs often, though not exclusively, in mechanical arts where, for example, spatial relationships or shapes of mechanical components constitute important aspects of the claimed invention. In such situations, text searching can still be useful by employing broader text terms, with or without classification parameters. The traditional method of browsing all patent documents in one or more classifications will continue to be an important part of the search strategy when it is difficult to express search needs in textual terms.

Having determined what search tool(s) should be used to conduct the search, the examiner should then determine the appropriate search strategy for each search tool selected. The appropriate search strategy should be determined by the examiner on a case-by-case basis along with consultation with other examiners, supervisory patent examiners, and/or trained professional online search personnel, where appropriate.

In order for examiners to acquire specialized skills needed to determine an appropriate field of search in their specific arts, each Technology Center may develop specific supplemental guidance and training for its examiners. This training will augment general training and information on search tools that is normally provided through the Office of Patent Training and Search and Information Resources Administration.

904.02(a) Classified Search [R-07.2022]

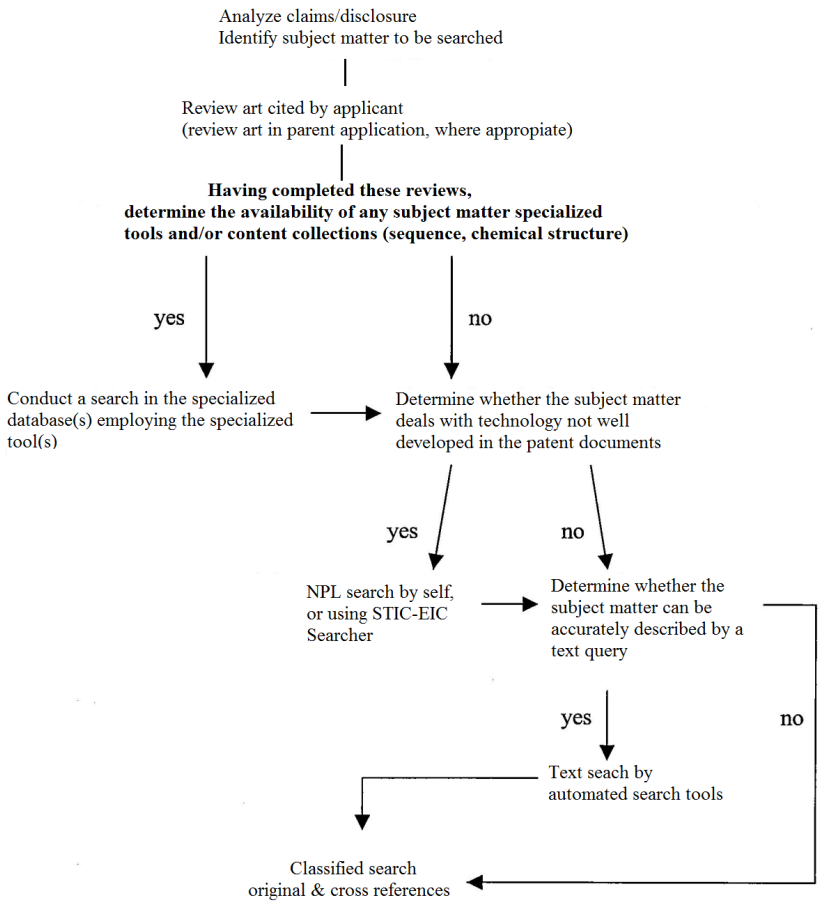
A search areas included in a proper field of search normally include the classification locations in which the claimed subject matter of an application would be properly classified at the time of the application's classification or grant of a patent. However, if the above proper classification does not correspond to the subject matter found in the claims (e.g., a situation where the proper classification corresponds to a disclosed, but unclaimed, embodiment), it is not necessary to search areas in which it could reasonably have been determined that there was a low probability of finding the best reference(s).

In outlining a field of search, the examiner should note every classification location (i.e. group/subgroup of the Cooperative Patent Classification and/or class/subclass of the U.S. Patent Classification) under the utilized classification system and other organized systems of literature that may have material pertinent to the subject matter as claimed, including those which have been assigned by a foreign Office, another USPTO examiner, or by the classification contractor. Every group/subgroup and secondary classification area of the Cooperative Patent Classification, class/subclass of the U.S. Patent Classification, digest, and cross-reference art collection pertinent to each type of invention claimed should be included, from the largest combination through the various subcombinations to the most elementary part. The field of search should extend to all probable areas relevant to the claimed subject matter and should cover the disclosed features which might reasonably be expected to be claimed. The examiner should consult with other examiners and/or supervisory patent examiners, especially with regard to applications covering subject matter unfamiliar to the examiner.

The areas to be searched should be prioritized so that the most likely areas of finding relevant prior art are searched first. Though areas to be searched should be prioritized, a thorough and complete search requires the consideration of references from each of the areas where the examiner is likely to find pertinent prior art. For documenting the field of search see MPEP § 719.05. See MPEP § 1302.10 for search information printed on the face of a patent.

904.02(b) Search Tool Selection [R-07.2015]

Detailed guidance on the choice and use of specific search tools can be established only within the context of the special requirements of each Technology Center (TC). However, a general methodology following a "decision tree" process, set forth below, for making broad decisions in search tool selection is suggested.


Analyze claims/disclosure
Identify subject matter to be searched
Review art cited by applicant
(review art in parent application, where appropiate)
Having completed these reviews,
determine the availability of any subject matter specialized
tools and/or content collections (sequence, chemical structure)
yes
no
Conduct a search in the specialized
database(s) employing the specialized
tool(s)
Determine whether the subject matter
deals with technology not well
developed in the patent documents
yes
no
NPL search by self,
or using STIC-EIC
Searcher
Determine whether the
subject matter can be
accurately described by a
text query
yes
no
Text seach by
automated search tools
Classified search
original & cross references

904.02(c) Internet Searching [R-07.2022]

The Internet is an Office-approved search tool that may be considered when planning and conducting a search for an application. The Internet provides the Office the opportunity to enhance operations by enabling patent examiners to efficiently locate and retrieve additional sources of information relating to a patent application.

The Office published a Patent Internet Usage Policy to establish a policy for use of the Internet by the patent examining corps and other organizations within the USPTO. See *Internet Usage Policy,* 64 F.R. 33056 (June 21, 1999). Articles 9 and 10 of the Patent Internet Usage Policy, which are pertinent to Internet searching and documenting search strategies, are reproduced below. Article 9 primarily addresses using the Internet for unpublished application searches. As mentioned therein, it is necessary that Internet searches related to unpublished applications MUST be limited to the general state of the art and formulated in such a way that protects the confidential proprietary intellectual property.

USPTO personnel may also use the Internet to search, browse, or retrieve information relating to the claimed invention(s) of a published application or proceeding including an application published pursuant to 35 U.S.C. 122(b), a reissue application, or a reexamination proceeding. These applications need not be kept in confidence; therefore, the restriction on the search queries used when performing an Internet search referenced in Article 9 below would not apply to these applications and proceedings. Any search query may include terminology related to the general state of the relevant technology, disclosed features from applicant's disclosure and claim terminology. See MPEP § 707.05(e) for information pertaining to the citation of electronic documents, MPEP § 719.05, subsection II for documenting an Internet search, and MPEP § 502.03 for information pertaining to communications via electronic mail.

The Internet is generally a public forum and most communications made over the Internet are neither confidential nor secure. All use of the Internet by examiners must be conducted in a manner that ensures compliance with confidentiality requirements in the statutes, including 35 U.S.C. § 122, and regulations. As part of an Internet search, examiners may visit social media websites that provide for public interactions, but are not authorized to participate on these websites or otherwise solicit assistance with patent examination even for published applications. For example, an examiner is not authorized to request users of a website to provide additional information not found on the website, elaborate further on information already posted on the website, or post new information on the website. Additionally, any Internet searching that is conducted is to be limited to searching for the information necessary for examination of the application or proceeding, such as the state of the art or the presence or absence of technical features in the prior art.

INTERNET SEARCHING (ARTICLE 9)

The responsibility for formulating individual search strategies lies with individual Patent Examiners, Scientific and Technical Information Center (STIC) staff, and anyone charged with protecting proprietary application data. When the Internet is used to search, browse, or retrieve information relating to a patent application which has not been published, other than a reissue application or reexamination proceeding, Patent Organization users **MUST** restrict search queries to the general state of the art unless the Office has established a secure link over the Internet with a specific vendor to maintain the confidentiality of the unpublished patent application. Non-secure Internet search, browse, or retrieval activities that could disclose proprietary information directed to a specific application which has not been published, other than a reissue application or reexamination proceeding, are **NOT** permitted.

This policy also applies to use of the Internet as a communications medium for connecting to commercial database providers.

DOCUMENTING SEARCH STRATEGIES (ARTICLE 10)

All Patent Organization users of the Internet for patent application searches must document their search strategies in accordance with established

practices and procedures as set forth in MPEP § 719.05 II.

904.03 Conducting the Search [R-07.2022]

It is a prerequisite to a speedy and just determination of the issues involved in the examination of an application that a thorough and complete search, commensurate with the limitations appearing in the most detailed claims in the case, be made in preparing the first action on the merits so that the second action on the merits can be made final or the application allowed with no further searching other than to update the original search. It is normally not enough that references be selected to meet only the terms of the claims alone, especially if only broad claims are presented; but the search should, insofar as possible, also cover all subject matter which the examiner reasonably anticipates might be incorporated into applicant's amendment. Applicants can facilitate a thorough and complete search by including, at the time of filing, claims varying from the broadest to which they believe they are entitled to the most detailed that they would be willing to accept.

In doing a thorough and complete search, the examiner should find and cite references that, while not needed for rejecting the claims, would be useful for forestalling the presentation of claims to other disclosed subject matter regarded by applicant as their invention, by showing that this other subject matter is old or obvious.

In selecting the references to be used in rejecting the claims, the examiner should carefully compare the references with one another and with the applicant's *disclosure* to avoid an unnecessary number of rejections over similar references. The examiner is not called upon to cite *all* references that may be available, but only the "best." (See 37 CFR 1.104(c).) Multiplying references, any one of which is as good as, but no better than, the others, adds to the burden and cost of prosecution and should therefore be avoided. The examiner must fully consider all the prior art references cited in the application, including those cited by the applicant in a properly submitted Information Disclosure Statement.

The best reference should always be the one used in rejecting the claims. Sometimes the best reference will have a publication date less than a year prior to the application filing date, hence it will be open to being overcome under 37 CFR 1.130 or 1.131. In such circumstances, if a second reference exists which cannot be so overcome and which, though inferior, is an adequate basis for rejection, the claims should be *additionally* rejected thereon.

In all references considered, including NPL, foreign patents, and domestic patents, the examiner should study the specification or description sufficiently to determine the full value of the reference disclosure relative to the claimed or claimable subject matter.

904.04 Search of Related Post-Grant Proceedings [R-07.2022]

As explained in MPEP § 904 the examiner is required to review specific papers of PTAB post-grant proceedings in related applications. An application under examination is sufficiently related to another proceeding, such that a complete search requires review of a post grant proceeding, if any one of the following conditions are met:

1) the examined application is the reissue of a patent that was previously or currently is the subject of a post-grant proceeding;

2) the examined application includes a benefit claim under 37 CFR 1.78 to the filing date of a prior US nonprovisional application where the prior US application has issued as a patent and that patent was previously or currently is the subject of a post-grant proceeding;

The examiner will be notified when there is a related PTAB post-grant proceeding through the Office's integrated examination tools. When a PTAB post-grant proceeding has been identified, the examiner must compare the claims of the examined application with that of challenged patents claims to determine whether they have similar scope or similar claim elements . The presence of a recorded terminal disclaimer or a non-statutory double patenting rejection between the application being examined and patent subject to a post-grant proceeding is evidence that the claims have a similar scope or similar claim elements. If the claims do not

have a similar scope or similar claim elements the examiner will annotate the search notes indicating the review was completed. See MPEP § 719.05 II.A., element K. When the claims are determined to have a similar scope or similar claim elements, the examiner is required to consider the following:

1. Petition;

2. Patent Owner's Preliminary Response to the Petition;

3. PTAB's Decision on the Institution:

a. If instituted, further consider the Patent Owner's response to the Petition;

b. If instituted, further consider the Final Written Decision by PTAB;

4. If present, any court decisions (e.g. Federal Circuit) concerning the case and further PTAB proceedings (e.g. PTAB rehearing or remand); and

5. If present, Parties' supporting evidence, including expert declaration.

Once the examiner has reviewed the required documents, the examiner should document the search as shown in MPEP § 719.05 II.A., element L.

Where the examined application shares a common inventor or common assignee applicant with another application or patent, the examiner should exercise professional judgment in determining whether a complete search would include review of the other application or patent as well as any post-grant proceedings on the other application or patent.

For reexamination proceedings, see MPEP §§ 2256 and 2286.01.

905 Cooperative Patent Classification [R-07.2015]

Cooperative Patent Classification (CPC) is a bilateral classification system jointly developed by the United States Patent and Trademark Office (USPTO) and the European Patent Office (EPO). CPC is jointly managed and maintained by both offices and is available for public search for classification.

905.01 Classification Scheme for CPC [R-07.2015]

The CPC classification system arranges subject matter into hierarchical arrays.

(A) The highest array or level is the Section.

(B) Each section is subdivided into Classes.

(C) Each class is subdivided into one or more subclasses.

(D) Each subclass is broken down into Groups (main groups and subgroups).

Each part of this hierarchical structure is identified by classification symbols. Specifics about each element of the classification symbol are described below.

(A) Section Symbol – Each section is designated by one of the capital letters A through H and has an associated section title. There are nine sections, eight of which correlate to the sections of the International Patent Classification (IPC). The ninth section is used for classifying documents covering subject matter pertaining to a plurality of the sections. The table below shows the sections with their associated CPC and IPC section titles.

Letter Designation	CPC Section	IPC Section
A	Human Necessities	Human Necessities
B	Performing Operations; Transporting	Performing Operations; Transporting
C	Chemistry; Metallurgy	Chemistry; Metallurgy
D	Textiles; Paper	Textiles; Paper
E	Fixed Construction	Fixed Construction
F	Mechanical Engineering; Lighting; Heating; Weapons;	Mechanical Engineering; Lighting;

	Blasting Engines or Pumps	Heating; Weapons; Blasting Engines or Pumps
G	Physics	Physics
H	Electricity	Electricity
Y	General Tagging of New Technological Developments; General Tagging of Cross-over technologies spanning over several sections of the IPC; technical subjects covered by former USPC cross reference art collections and digest	

(B) Class Symbol – Each class symbol consists of the section symbol followed by a 2 digit number (e.g., C07). Each class symbol is associated with a title.

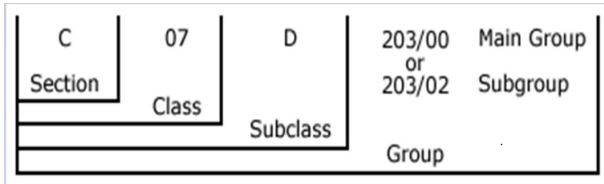
(C) Subclass Symbol – Each subclass symbol consists of the class symbol followed by a letter (e.g., C07D). Each subclass symbol is associated with a title.

(D) Main Group Symbol – Each main group symbol consists of the subclass symbol followed by a one- to four- digit number, the oblique stroke, and the number 00 (e.g. C07D 203/00). Each main group number is associated with a main group title which precisely defines a field of subject matter within the scope of its subclass and a definition.

(E) Subgroup Symbol – Each subgroup symbol consists of the main group symbol, but the number "00" in the main group symbol is replaced with an alternative number of up to six digits (e.g. C07D 203/02). Each subgroup symbol is associated with a title and definition.

Example:

CPC Symbols C07D 203/00 or C07D 203/02



905.01(a) CPC Titles [R-07.2015]

The title associated with a CPC symbol defines the scope of the subject matter covered by that symbol. In general, the title of every CPC organizational division is read as including the titles of all its superior organizational units. For example, the title of a CPC subgroup is interpreted as including the title of its parent group and that parent's group title all the way up to, and including, the section title.

Titles in the CPC system are generally in the form of single part or multipart titles which are described below.

(A) Single part title -- Defines or represents the subject matter of a single concept or information.

Example:

A47C 1/00 Chairs adapted for special purposes

(B) Multipart title (separated by semicolons) -- A semicolon in a CPC title delineates coverage of two distinct and separate information entities that should be considered stand-alone things for purposes of coverage.

Example:

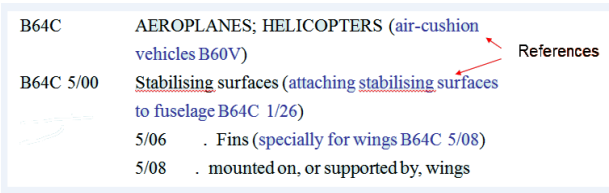
F25D REFRIGERATORS; COLD ROOMS; ICE-BOXES; COOLING OR FREEZING APPARATUS NOT COVERED BY ANY OTHER SUBCLASS

The three semicolons in the above example inform us that the subclass covers four distinct and separate entities: 1) refrigerators, 2) cold rooms, 3) ice boxes, and 4) other types of cooling or freezing apparatus not covered by any other subclass, therefore it is a residual to all cooling and freezing apparatus not elsewhere classified in CPC.

905.01(a)(1) References within CPC Titles [R-07.2015]

References are statements enclosed within parentheses in titles. The references point to other classification places that may be of interest. References apply to the classification place they appear and to all hierarchically lower classification places, unless stated otherwise.

Examples of References:



Example:

B64C AEROPLANES; HELICOPTERS (air-cushion vehicles B60V)

(A) Limiting references

A limiting reference is found in the group titles of the scheme and exclude specific subject matter from the scope of the classification place, when this subject matter would otherwise fulfill all the requirements of the classification place (or would be covered by that place). Limiting references are pertinent for classification purposes. Limiting references limit the scope of a place, thereby avoiding overlap.

Example:

A01F 7/02 . With rotating tools (threshing cylinders or concaves A01F 12/18)

(B) Precedence references

A precedence reference is a special example of a limiting reference that always refers to another group or groups taking "precedence" within the same subclass. The purpose of a precedence reference is to remove overlap between two similar groups.

Example:

G02B 1/00 Optic elements

1/04 . made of organic materials (1/08 takes precedence)

905.01(a)(2) Notes Found in CPC schemes [R-07.2015]

Notes are supplementary statements that follow a CPC class, subclass, main group, or subgroup title. Instruction in a "Note" is applied only to the CPC place where it appears, including all its hierarchically lower places. For example, a note after a class title applies to the entire class. A note after a subclass title applies only to the subclass, a note after a main group applies only to the main group, etc. Notes may be used to explain the scope, define terminology, or indicate specific classification rules.

905.01(a)(3) Warnings Found in CPC schemes [R-07.2015]

A warning is used in CPC schemes for signaling deviations from IPC or incomplete classification. A warning may include a listing of IPC groups not included within CPC and the CPC group which covers the relevant subject matter. A warning also may be used to indicate the deletion or transferring of CPC groups and reclassification notices.

905.01(a)(4) Guidance Headings Found in CPC Schemes [R-07.2015]

Guidance headings may be provided as follows:

(A) When a large part of a subclass relates to a common subject matter, a guidance heading indicating that subject matter may be provided at the beginning of that part.
(B) As a title, without any associated symbol, of subject matter preceding several main groups.

(C) To describe common subject matter of several main groups.

905.02 CPC Definitions [R-07.2015]

Each CPC definition, whether it is a subclass, main group, or subgroup definition, must adhere to the same definition template which defines the permissible elements and formatting. Most CPC schemes will include supplementary definitions to clarify the scope of classification places as well as to inform the user of special classification rules in that area. Definitions are provided for CPC subclasses, main groups or subgroups, but not for CPC sections or classes. Not all CPC subclasses or groups have definitions. When a title is sufficiently clear to describe the scope of the classification place, a definition statement is not necessary.

A definition may include the following:

(A) Definition title – The definition title always reflects the title of the classification place being defined. For example, a subclass definition will have the same title as the title of the subclass; a group definition will have the same title as the title of the group.

(B) Definition Statement - The scope of the definition statement should essentially be the same as the scope of the title. The definition statement should clearly elaborate the meaning of the classification place rather than merely restating its title. The definition statement should provide a positive description of the subject matter appropriate for the classification place, rather than a negative description of the subject matter excluded from the classification place. The appropriate classification places for the excluded subject matter are found under “Limiting References”.

(C) References relevant to classification in a subclass/group

(1) Limiting and precedence references – See MPEP § 905.01(a)(1).

(2) Specially adapted references – Specially adapted references are references from function-oriented (general) to application-oriented places. The subject matter indicated by a specially adapted reference could be classified in the instant classification place, and in the classification place where the reference points to, or both.

(3) Residual references – Residual references from residual subclasses (defined as such in the title of the subclass or the definition statement) to non-residual places should appear in this section.

(4) Informative references -- Informative references are references that indicate the location of subject matter that could be of interest for searching, but are not within the scope of the classification place where the reference occurs. References from application-oriented places to function-oriented places are informative.

(D) Special rules of classification within the subclass/group -- This section contains special classification rules, which apply only within the subclass/group and not between subclasses/groups. Examples of such classification rules are the first place or the last place priority rules.

(1) First place priority rule: When a document is classifiable in more than one group in a scheme, the one highest in the scheme is allocated to the document.

(2) Last place priority rule: When a document is classifiable in more than one group in a scheme, the one lowest in the scheme is allocated to the document.

(3) Common rule: When a document is classifiable in more than one group in a scheme, the classification symbol that most completely covers the invention is allocated to the document.

In CPC, as with IPC, in the absence of any classification rule, common rule, defined in (D)(3) above, is the governing classification rule.

(E) Glossary of terms -- This section consists of definitions for significant words or phrases found in the titles or definition statements. Terms found exclusively in patent documents or in technical literature, but not in the scheme or the definition statement, will normally appear in the synonyms and keywords section.

(F) Synonyms and Keywords - This is an optional section establishing synonyms, keywords, abbreviations and acronyms from terms used in the patent documents themselves or in technical literature. This section aids in formulating search queries in electronic searching in the technical field.

This section may include definitions of such terms when they do not appear in the scheme or the definition statement.

905.03 Classifying in CPC [R-10.2019]

The primary purpose of classification is to facilitate the retrieval of technical subject matter. In order to reliably retrieve technical subject matter using the CPC classification system it is important for all technical subject matter to be consistently classified.

CPC has its own classification rules which appear in the scheme, definitions, or both. See MPEP § 905.02. In the absence of any specified classification rules in the scheme and definitions, classification practice follows the rules used in the IPC, as set forth in the IPC Guide. The IPC Guide is available at **www.wipo.int/classifications/ipc/en/**.

905.03(a) The CPC Database [R-07.2022]

The CPC database maintains technical information regarding the patent family documents for each patent document included. Patent documents contain two types of technical information to classify. These are invention information and additional information. All of the symbols which are allocated to an application, in accordance with CPC guidance, define the application's classification picture.

I. PATENT FAMILY

A patent family is a group of documents related to each other by common priorities. Examples include a pre-grant publication (PGPub) of an application and any patent issued from the same application. A parent and divisional application also are considered as being in the same family.

In the CPC database, CPC symbols are associated with patent families. When a document is classified in CPC, the symbol associated with the document is stored in the CPC database as an association between the symbol and patent family in which the document is a member. This means that whenever a CPC symbol is allocated to a document all the documents in the family receive the same symbol.

In the CPC database, a document cannot be classified independently of the other documents belonging to the same patent family. Every classification symbol associated with a document, i.e., allocated to the document, is associated with every patent document in the family. Each allocation of a symbol to a patent family has additional attributes stored in the CPC database. These include the following:

Classification symbol
Type (Invention/other additional information)
Position (First/later classification)

II. INVENTION INFORMATION (OBLIGATORY/MANDATORY)

All disclosed invention information in a patent document must be classified in CPC in order for a user to retrieve the invention information from the system. Therefore, it is mandatory to classify all the invention information disclosed in each family to be classified.

Invention information is technical information in the total disclosure of a patent document (for example, description, drawings, claims) that represents an addition to the state of the art. The invention information is determined in the context of the state of the art, using guidance provided by the claims of the patent document, with due regard given to the description and the drawings. “Addition to the state of the art” means all novel and unobvious subject matter specifically disclosed in a patent document, which advances the state of the art, i.e., the technical subject matter disclosed that is not already in the public domain.

Patent documents should not be classified as a single entity. Rather, all different inventive entities, claimed or disclosed within the patent document, should be identified and separately classified. Such different inventive entities are represented by different claims, alternative variants or different categories of subject matter (for example, a product and a method of its production).

III. ADDITIONAL INFORMATION (DISCRETIONARY)

Additional information is non-trivial technical information which does not in itself represent an addition to the state of the art but might constitute useful information for the searcher. The additional information complements the invention information by identifying the constituents of a composition or mixture; elements or components of a process or structure; or use or applications of classified technical subjects.

Unlike invention information which must be classified, any additional non-trivial technical information that would be useful for search is classified on a discretionary basis.

IV. C-STAR (C*) INFORMATION (OBLIGATORY/MANDATORY)

A C-STAR (C*) is applied to an allocated symbol from the classification picture on an application when that symbol represents at least one concept that is claimed. C* designations should be applied to symbols regardless of type or position (any of family, invention, and additional). No new CPC symbols should be allocated merely to address C*s. Narrow/specific CPC symbols that fall within the claimed subject matter shall be designated as C*. Narrowly allocated symbols that overlap with broadly defined claims shall be designated as C*. There is no limit to the number of the CPC symbols within the classification picture of an application that can be designated as a C*, but at least one CPC symbol must be designated as a C*.

A. Type Attributes

Every classification allocation has a "type" attribute. There are two values that this attribute may have:

(A) Invention Information

When allocating CPC symbols to a document based on disclosed invention information, the type attribute is set to "invention." This is typically done by putting the symbol being allocated in the "mandatory" section of the classification form.

(B) Additional information

When allocating CPC symbols to a document based on disclosed information that is not inventive, the type attribute is set to "additional". This is typically done by putting the symbol being allocated in the "discretionary" section of the classification form.

(C) Position Attribute

First - Each patent family will possess a first-listed CPC classification symbol which is selected from the required classifications for the inventive subject matter of the patent family. This "first" CPC classification is the inventive classification symbol which most adequately represents the invention as a whole for the patent family. In situations where a later-published family member possesses a different first-listed CPC classification, this will override the previous first-listed classification (which will be retained for the patent family as an inventive classification symbol). There is one and only one "first" position attribute per patent family. The first attribute is associated with the invention symbol that most completely covers the technical subject matter of the disclosed invention. The first position symbol is identified as the first mandatory symbol listed on the classification form.

Later - If a symbol allocation is not the "first" position symbol, its position attribute is "later". All invention allocations that are not "first" position, as well as all "additional" type symbols have the position attribute "later". All symbols listed on the classification form other than the first listed invention symbol receive the position attribute "later".

905.03(b) Approach to classification in CPC [R-07.2022]

The first step to classifying a document in CPC is to identify the subject matter that will be classified. The second step is to identify appropriate groups in CPC covering the subject matter to be classified.

The general rules for identifying the subject matter to classify in CPC are as follows:

(A) All subject matter covered by the claims of a patent document must be classified as invention information along with any novel and unobvious constituents or components (subcombinations) of

the claimed subject matter. Classification should be based on the subject matter of each claim as a whole and on each inventive embodiment within a claim.

(B) Any unclaimed subject matter in the disclosure that is novel and unobvious must also be classified as invention information.

(C) It is desirable to classify or index any additional information complementing the invention information, mentioned in the claims or in the unclaimed disclosure, if it is useful for search purposes.

(D) A subcombination of the subject of the invention if the subcombination is itself novel and non-obvious.

The scheme or definitions in particular areas should be consulted to determine if additional classification or index codes are required. For example, places in CPC where multi-aspect classification is especially desirable are indicated by a note. See MPEP § 905.02. Depending on the nature of the subject matter concerned, such a note prescribes obligatory classification of the subject matter according to the indicated aspects, or contains a recommendation for multi-aspect classification if it is desirable for increasing the efficiency of the patent search.

The general procedure for identifying the appropriate groups for covering the subject matter to be classified is as follows:

(A) Identify the appropriate subclasses covering the subject matter to be classified.

(1) The scope of a subclass is defined by its title and definition. In order to determine a candidate subclass for classification one must review the titles of available subclasses for scope coverage.

(2) After a candidate subclass has been identified, the subclass notes, references and definition should be consulted to verify that the scope of the subclass covers the subject matter to be classified.

(3) The preceding steps should be repeated until a candidate subclass is verified to cover the subject matter to be classified.

(B) Identify the appropriate group(s) covering the subject matter to be classified.

(1) Identify candidate main groups that cover the subject matter to be classified.

(2) Verify that the notes, references, and definitions do not exclude the subject matter to be classified, and that the group is in active use (not under reclassification).

The technical subject matter of many inventions is completely covered by only one group in the subclass. In this situation, classification is made in the one group covering the technical subject matter of the invention.

When multiple groups cover the technical subject matter of a single invention, classification is generally made in the group which most completely covers the invention. Within a group array, a group that covers the technical subject matter of the invention to be classified generally covers the subject matter more completely than the parent of that group.

When multiple groups cover the invention equally well, groups are selected according to the following rules:

(a) In the case where the Last Place Priority Rule (LPPR) is applicable to the groups under consideration, then the group lowest in the scheme is selected for classification.

(b) In the case where the First Place Priority Rule (FPPR) is applicable to the groups under consideration, then the group highest in the scheme is selected for classification.

(c) In the case where neither LPPR nor FPPR are applicable to the groups under consideration, then classification is made in each group.

(3) Whenever classifying into a group, the scheme notes and definitions should be consulted for guidance regarding special rules of classification applicable to the CPC groups at issue, such as the requirement for Multiple Aspect classification or Indexing.

(4) Whenever classifying into a group, the scheme should always be consulted for precedence notes and references that indicate a preference for classification in another group. Precedence notes and limiting reference should always be followed when applicable.

(5) Identify application/functional classification places. Occasionally, two or more

subclasses/groups are identified that cover the disclosed invention information from different aspects. For example, one classification place might cover specific uses of the invention, whereas the second classification place may cover the generic uses of the invention. These types of coverage are respectively referred to as application and functional classification places. In general, classification is made in the application classification place when application specific adaptations are disclosed. For example, a pump specially adapted to replace a heart is classified in A61M 1/10, whereas pumps, in general, without any disclosed special adaptation are classified in F04B, F04C, F04D, or F04F depending on the specific structure of the pump. When uses of inventions are nominally disclosed, classification is generally made in functional classification places.

(6) Identify genus/species classification places.

(a) In the case where an invention is generically disclosed classification is made to the classification place covering the generic invention. Even in cases where species are nominally disclosed, such as by name only, classification is still made to the generic classification place.

(b) In the case where fully enabled species are disclosed, classification is required in the classification places covering the individual species.

(7) Identify residual classification places

In the event a classification place that explicitly covers the technical features of the invention to be classified cannot be identified, then classification should be made to a “residual” classification place. Residual classification places can be found at both subclass and group levels. Residual classification places are identifiable by their titles, which typically indicate they cover subject matter not elsewhere covered.

When an application is passed to issue, it is the duty of each primary examiner to personally review the classification picture of the application in the issuing classification boxes on the Issue Classification form. This form provides space for the full name of the "Primary Examiner" to show that the review has been made. An examiner with full signatory authority who acts personally on an application and sends it to issue should stamp and sign their name on the Issue Classification form ONLY in the "Primary Examiner" space.

905.03(c) Combination Sets [R-07.2015]

In certain CPC fields, the examiner has the ability to create and search on combinations of CPC symbols (provided as groupings of symbols), each symbol in a grouping has a defined relationship to the other symbols in its grouping. These groupings are termed combination sets, and provide an enhanced mechanism for storing and retrieving classification information from patent documents. While the usage of CPC combination sets is confined mostly to the chemical fields, there are numerous instances where combination sets are used in mechanical and electrical fields.

The first symbol in a combination set is termed the base classification symbol, and determines the authorization for creation or deletion of combination sets within the field of the base symbol. The other members of a combination set possess the same Invention or Additional information, i.e. INV/ADD attribute as the base symbol, with an ordered ranking to denote their positioning within the combination set.

Guidance on the creation of combination sets is detailed in the CPC classification definitions. For example, the combination sets in a given field may denote the sequence of operations in a multi-step process, while in another field, the combination sets may denote the product and its method of manufacture. It is even possible to have the same CPC symbol appear more than once in a given combination set, with the ordering thereof to reflect the occurrence of multiple steps provided for by the repeated CPC symbol.

906 International Classification of Patents for Inventions [R-07.2015]

In accordance with the Strasbourg Agreement Concerning the International Patent Classification, the United States is required to indicate on its issuing documents the classification symbols of the

International Patent Classification 2006 (Eighth Edition), hereinafter referred to as "Int. Cl."

The complete Int. Cl. symbols must be placed in the indicated space on the Image File Wrapper (IFW) issue classification form when an application is issued.

I. INT. Cl. LAYOUT

The layout of the Int.Cl. is explained below with reference to the sample page.

A. Section

The Classification represents the whole body of knowledge which may be regarded as proper to the field of patents for invention, divided into eight sections.

Section Symbol — Each section is designated by one of the capital letters A through H.

Section Title — The section title is to be considered as a very broad indication of the contents of the section. The eight sections are entitled as follows:

A. Human Necessities

B. Performing Operations; Transporting

C. Chemistry; Metallurgy

D. Textiles; Paper

E. Fixed Constructions

F. Mechanical Engineering; Lighting; Heating; Weapons; Blasting

G. Physics

H. Electricity

Contents of Section — Each section title is followed by a summary of the titles of its main subdivisions.

Subsection — Within sections, informative headings form subsections, which are titles without classification symbols.

Example: Agriculture

B. Class

Each section is subdivided into classes.

Class Symbol — Each class symbol consists of the section symbol followed by a two-digit number.

Example: A 01

Class Title — The class title gives an indication of the content of the class.

Example: A 01 Agriculture; Forestry; Animal Husbandry; Hunting; Trapping; Fishing

C. Subclass

Each class comprises one or more subclasses.

Subclass Symbol — Each subclass symbol consists of the class symbol followed by a capital letter.

Example: A 01 B

Subclass Title — The subclass title indicates as precisely as possible the content of the subclass.

Example: A 01 B Soil Working in Agriculture or Forestry; Parts, Details, or Accessories of Agricultural Machines or Implements, in General

Subclass Index — Some subclasses have an index which is merely an informative summary giving a broad survey of the content of the subclass.

D. Group

Each subclass is broken down into subdivisions referred to as "groups," which are either main groups or subgroups.

Group Symbol — Each group symbol consists of the subclass symbol followed by two numbers separated by an oblique stroke.

Main Group Symbol — Each main group symbol consists of the subclass symbol followed by a one- to three-digit number, the oblique stroke, and the number 00.

Example: A 01 B 1/00

Main Group Title — The main group title defines a field of subject matter considered to be useful in searching for inventions.

Example: A 01 B 1/00 Hand tools

Subgroup Symbol — Subgroups form subdivisions under the main groups. Each subgroup symbol consists of the subclass symbol followed by the one- to three-digit number of its main group, the oblique stroke, and a number of at least two digits other than 00.

Example: A 01 B 1/02

Any third or fourth digit after the oblique stroke is to be read as a decimal subdivision of the second or third digit, respectively; e.g. 3/426 is to be read as "three slash forty-two point six", not three slash four hundred and twenty six and is to be found after 3/42 and before 3/43, and 5/1185 is to be read as "five slash eleven point eight five," and is to be found after 5/118 and before 5/119.

Subgroup Title — The subgroup title defines a field of subject matter within the scope of its main group considered to be useful in searching for inventions. The title is preceded by one or more dots indicating the hierarchical position of the subgroup, i.e., indicating that each subgroup forms a subdivision of the nearest group above it having one dot less. The subgroup title is often a complete expression, in which case it begins with a capital letter. A subgroup title begins with a lower case letter if it reads as a continuation of the title of the next higher, less-indented group, i.e., having one dot less. In all cases, the subgroup title must be read as being dependent upon, and restricted by, the title of the group under which it is indented.

Examples

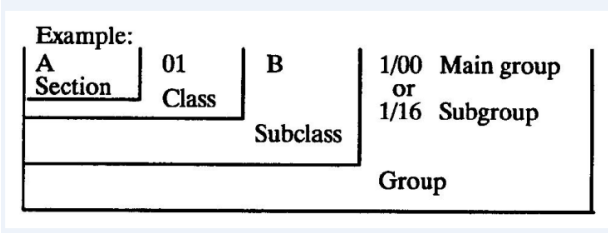
A 01 B 1/00 1/24 Hand tools for treating meadows or lawns (The title of 1/24 is to be read as:

Hand tools for treating meadows or lawns.)

A 01 B 1/00 1/16 Hand tools Tools for uprooting weeds (The title of 1/16 is a complete expression, but owing to its hierarchical position, the tools for uprooting weeds are restricted to hand tools.)

E. Complete Classification Symbol

A complete classification symbol comprises the combined symbols representing the section, class, subclass, and main group or subgroup.



Guide Headings

The main groups in each subclass are arranged in a sequence intended to assist the user. It has not, however, been found practicable to standardize the sequence. Where several successive main groups relate to common subject matter, it is usual to provide before the first of such main groups a "guide heading" which is underlined, indicating this subject matter (see, for example, the guide heading "Ploughs" before group A 01 B 3/00). The series of groups covered by such a heading extends to the next guide heading or to a line in heavy type extending across the column, which is used when the following group or groups relate to different subject matter for which no guide heading is provided. (See, for example, the line after A 01 B 75/00.)

II. CLASSIFYING IN THE INT. Cl. SYSTEM

A. Selecting Subclasses Corresponding to U.S. Classes

The effective scope of a subclass is defined by the following, taken together:

The subclass title which describes, as precisely as is possible in a small number of words, the main characteristic of a portion of the whole body of knowledge covered by the Classification, this portion being the field of the subclass to which all its groups relate;

Any references which follow the subclass title or the hierarchically higher class title. These references often indicate certain parts of the field described by the title which are covered by other subclasses and are, therefore, excluded. These parts may constitute a substantial part of the field described by the title and, thus, the references are in some respects as important as the title itself. For example, in subclass A 47 D — FURNITURE SPECIALLY ADAPTED FOR CHILDREN — a considerable part, namely school benches or desks, of the subject matter covered by the title is excluded in view of a reference to particular groups of subclass A 47 B, thus considerably altering the scope of subclass A 47 D;

Any references which appear in groups or guide headings of a subclass and which refer subject matter to another class or subclass may also affect the scope of the subclass in question. For example, in subclass B 43 K — INSTRUMENTS FOR WRITING; DRAWING-PENS — writing points for indicating or recording apparatus are referred out of group 1/00 to group 15/16 of subclass G 01 D, thereby reducing the scope of the subject matter covered by the title of subclass B 43 K;

Any notes or definitions appearing under the subclass title or its class, subsection, or section title. Such notes or definitions may define terms or expressions used in the title, or elsewhere, or clarify the relation between the subclass and other places. Examples are

(1) Note (1) appearing under the title of the subsection "ENGINES OR PUMPS," embracing classes F 01 to F 04, which notes define the terms used throughout the subsection,

(2) the notes appearing under the title of subclass F 01 B, which define its scope in relation to subclasses F 01 C to F 01 P, and

(3) the note following the title of section C which defines groups of elements.

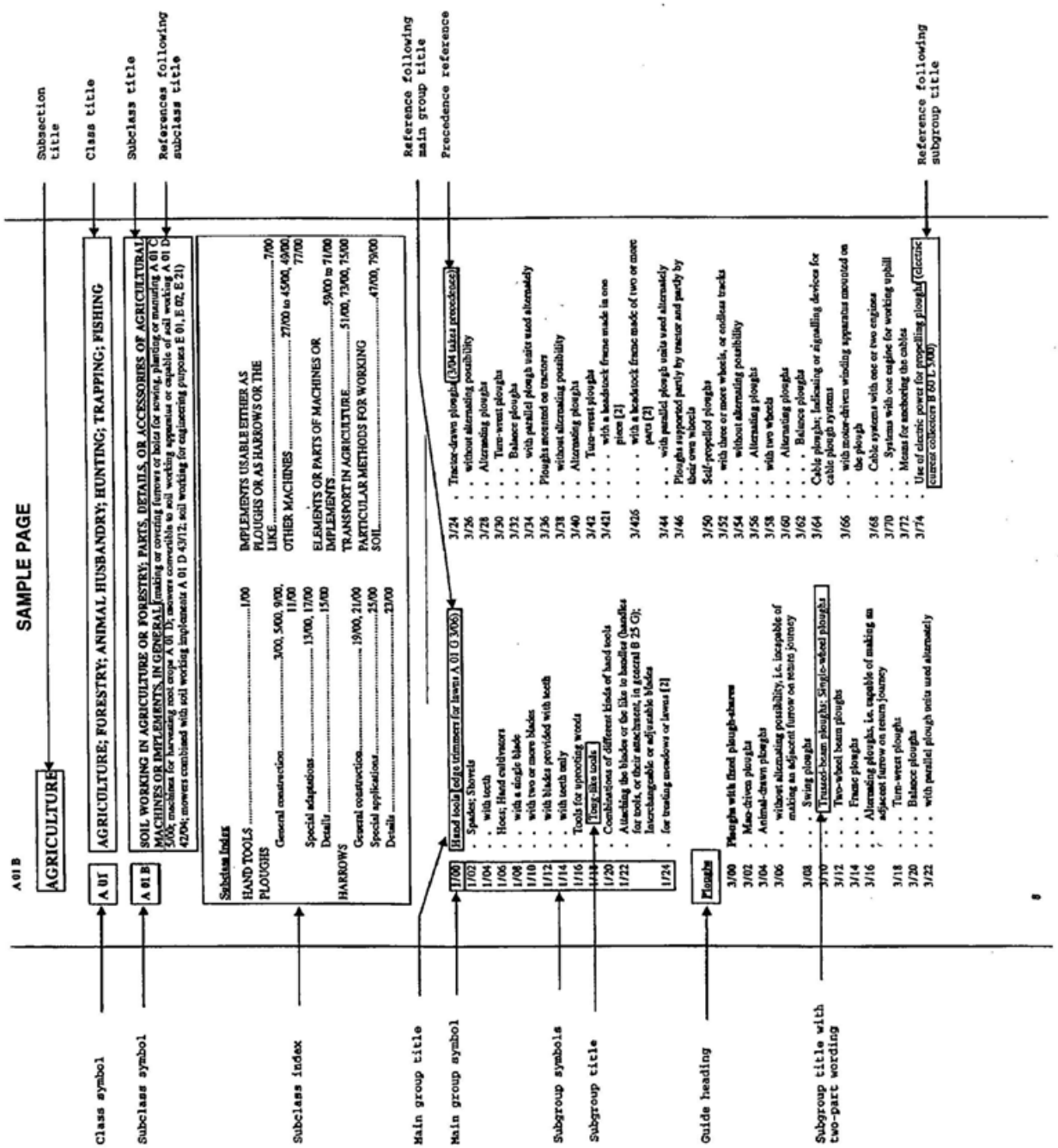
B. Selecting Main Groups Corresponding to U.S. Mainline Subclasses

The scope of a main group is to be interpreted only within the effective scope of its subclass (as indicated above). Subject to this, the effective scope of a main group is determined by its title as modified by any relevant references or notes associated with the main group or with any guide heading covering it. For example, a group for "bearings" in a subclass whose title is limited to a particular apparatus must be read as covering only features of bearings peculiar to that apparatus, e.g., the arrangement of bearings in the apparatus. Guide headings are intended to be only informative and, as a rule, do not modify the scope of the groups covered by them, except where it is, otherwise, clear from the context. By contrast, references in the guide headings modify the scope of the associated groups.

C. Selecting Subgroups Corresponding to U.S. Indented Subclasses

The scope of a subgroup is likewise to be interpreted only within the effective scope of its main group and of any subgroup under which it is indented. Subject to this, the scope of a subgroup is determined by its title as modified by any relevant references or notes associated therewith.

See volume 9 of the International Patent Classification, entitled "Guide, Survey of Classes and Summary of Main Groups" for detailed procedures for classifying into and searching Int. Cl.



III. U.S. INT. Cl. CONCORDANCE

The Office of Patent Classification has prepared a revised Concordance between the U.S. classes and subclasses and the Int. Cl. In many areas, the two systems are conceptually different. With this in mind, it will be seen that a complete one-to-one correspondence between the two systems cannot be attained. An indication in the Concordance may refer to only one relevant group and not necessarily the only group in which the patent can or should be classified. For some inventions, the Concordance

may not indicate any truly relevant group. Accordingly, the Concordance must be recognized as a guide to be used in conjunction with the Int. Cl., and not as a translation list.

907 Locarno Classification Designations [R-07.2015]

U.S. design patents prepared for issue after June 30, 1996 and international design applications include a Locarno International Classification designation as part of the bibliographic data. The purpose of the international design classification designation is to enhance accessibility of design patents in foreign design search files as well as commercial databases.

The Locarno International Classification system was developed by members of the Paris Convention for the Protection of Industrial Property and is administered by the International Bureau of the World Intellectual Property Office (WIPO).

A Locarno International Classification designation consists of two pairs of numbers separated by a hyphen. The first pair of numbers designates a design class; the second pair of numbers indicates a particular subclass within the design class. The Locarno Classification manual, available from WIPO, delineates the individual classes and subclasses and includes: (1) a general list of classes of industrial designs divided into broad subclasses; and (2) an alphabetical list of specific industrial designs with an indication of the classes and subclasses into which they should be classified.

The Locarno designation included with design patent bibliographic data indicates the original classification of the patented design only. There is no provision for cross-reference designations within the Locarno system.

Locarno International Classifications are periodically revised by the Committee of Experts of the World Intellectual Property Organization.

The Image File Wrapper (IFW) issue classification form includes an area with the heading “International Classification”. A Locarno International Classification designation must be included on the issue slip when a design application is prepared for issue. The Locarno designation is printed on the design patent preceded by INID code [51] in compliance with ST.9 of the International Bureau. The abbreviation “LOC (7) CL.” follows INID code [51] and complies with the recommended abbreviation by the International Bureau.

An example Locarno designation as it appears on a U.S. Design Patent is as follows:

[51] LOC (7) CL. 02-02

The Office of Patent Classification has prepared a Concordance between the U.S. Design Classification classes and subclasses and the Locarno International Classification. In many areas of design subject matter, the U.S. Design Classification and Locarno Classification systems are parallel. In others, the two systems are conceptually different. For example, there is no specific provision within the Locarno system for designs which are simulative of other objects. The International Classification is generally based on the nature of the design rather than ornamental appearance. Accordingly, a one-to-one relationship between the two classification systems is not always possible.

Each suggested designation in the Concordance refers to a single Locarno International class and subclass. This designation, however, is not necessarily the only pertinent class and subclass in which the design could be properly classified since for some U.S. Design Classification designations, there is no direct parallel within the Locarno system.

908 [reserved]

909 Routing and Docketing of Applications [R-07.2022]

909.01 Assignment, Transfer and Classification Challenges under Cooperative Patent Classification (CPC) [R-07.2022]

The titles “management” and "assigned examiner", as used in this Chapter 900, include in their definition any person designated by them to act on their behalf.

Assignment of a patent application in the Cooperative Patent Classification system is determined by the C-Star (C*) designations assigned to the application. C* is a binary designation given to the family level Cooperative Patent Classification (CPC) symbol(s) on an application that are representative of the claimed subject matter in an application. See MPEP § 905.03.

909.01(a) New Applications in CPC [R-07.2022]

New nonprovisional utility applications are assigned directly to individual examiners by an automated routing system that uses the CPC symbols on an application to determine the best available examiner to work on that individual application. When a new application is received which, in the opinion of the assigned examiner, has one or more improper C* classifications on the application, the assigned examiner may submit a classification challenge to have a C* designation added and/or a C* designation removed. See MPEP § 909.01(d).

909.01(b) Classification and Assignment to Examiner in CPC [R-07.2022]

Every nonprovisional utility application, new or amended, and including the drawings, if any, when first received by the USPTO must be fully classified and have C* designations assigned to those CPC symbols on the application that represent the subject matter claimed. Once the application has received these classifications, the automated routing system can assign the application to an examiner. Provisional applications are not classified or assigned since they are not examined.

Utility applications are routed to an examiner using an automated routing system. The automated routing system takes into account the CPC classifications of an application and compares them to examiner portfolios (i.e. the classification areas to which the examiner has been assigned). Additional factors, such as the size of an examiner's docket, case backlogs within a particular classification area, and the application's status as a continuation or divisional application are weighted by the automated system prior to assignment of the application.

909.01(c) Immediate Inspection of Amendments [R-07.2022]

Upon the receipt of an amendment which makes a C* classification challenge necessary, steps should be taken promptly in accordance with the C* classification challenge outlined in MPEP § 909.01(d). Generally, after a first action on the merits has been mailed C* classification will not be removed from an application's classification picture.

909.01(d) Classification Challenge Procedure in CPC [R-07.2022]

I. CLASSIFICATION CHALLENGE PROCESS

When, in the opinion of the assigned examiner, the C* designated CPC symbol(s) on a nonprovisional utility patent application are incorrect, they must initiate a C* challenge through the Classification Allocation Tool (CAT) (**https://cpc.uspto.gov/mcc/secure/index.html#/home**) and complete the C* challenge form indicating any and all challenges to any C* designations including suggested additions of C* designations. Every challenge must also be accompanied by an explanation as to why each C* designation should be added or removed.

If the examiner assigned the application believes the application has been improperly assigned to them, but is unable to determine the appropriate C* designations, a supervisory patent examiner, a search and classification expert, or quality nominee should be consulted.

If review of the C* challenge(s) results in a determination that change(s) should be made to the C* designation(s) on an application and a First Action on the Merits (FAOM) has not been submitted for credit at the time of the determination, the application may be rerouted by the automated routing system based on the new C* designations on the application.

If management's review of the C* challenge(s) results in no change(s) to the C* designations on an application the application will remain with the assigned examiner and a brief explanation as to why

the C* designation(s) are appropriate or inappropriate will be provided to the examiner.

II. CLASSIFICATION CHALLENGE AFTER ELECTION

In those applications in which a restriction is considered proper by the examiner, an election must be made prior to the submission of C* challenge(s) so that the challenge may be decided based on the claims elected. The election may be made either telephonically or in writing.

III. PATENT FILE WRAPPER

SPEs and examiners must use the Classification Allocation Tool (CAT) classification challenge pages which create a record of the classification challenge history of each application and facilitates tracking of classification challenges of applications.

909.02 Applications: Assignment and Transfer in USPC [R-07.2022]

The titles "supervisory patent examiner" and "primary examiner," as used in this Chapter 900, include in their definition any person designated by them to act on their behalf. It is recognized that authority to accept or refuse the transfer of an application classified in USPC may be delegated when such authority is deserved.

The primary examiners in design and plant areas have been designated full authority to accept any application submitted to them that they believe is properly classifiable in a class in their art unit.

909.02(a) New Design and Plant Patent Applications under 35 U.S.C. 161 [R-07.2022]

New nonprovisional design and plant applications are assigned to Technology Centers (TCs) 2900 and 1600, respectively, in the first instance by the Office of Patent Application Processing (OPAP).

909.02(b) Classification and Assignment to Examiner [R-07.2022]

Every nonprovisional design and plant application, new or amended, and including the drawings, if any, when first assigned to a Technology Center (TC) must be classified and assigned to an examiner for examination. The supervisory patent examiner normally assigns the application to an examiner. Provisional applications (Plant only) are not classified or assigned since they are not examined.

If an examiner other than the supervisory patent examiner is given the responsibility of assigning applications, time so spent may, at the TC Director's discretion, be charged to "Other Time- Classify (non-PGPub) and assign cases".

909.02(c) [Reserved]

909.02(d) Transfer Procedure [R-07.2022]

I. TRANSFER OF DESIGN APPLICATIONS

Technology Center (TC) 2900 has developed internal procedures for transferring applications between examiners/art units and resolving application assignment disputes.

When an examiner believes an application, either new or amended, does not belong in their customarily assigned art area, they may request transfer of the application from their docket (the "originating" examiner docket) to another examiner's docket or art unit (the "receiving" examiner or art unit docket). The originating examiner should determine the proposed classification of the application in question. If the classification is not easily determined, the examiner may need to perform a cursory search or place a call to the applicant to better understand the art area where the application should be placed.

To initiate the application transfer the examiner should send an email to the examiner who customarily examines the art of the proposed classification change (receiving examiner) and provide a full explanation of the reasons for the proposed classification.

If the receiving examiner has the authority to accept any application submitted to them that they believe is properly classifiable in a class in their customarily assigned art area, they classify and assign the application.

The decision as to the classification resolution and assignment of an application is customarily made by agreement between the examiners involved in the transfer. However, if no agreement can be reached between the examiners, the transfer request may be forwarded to the supervisors of the originating and receiving examiners for decision. If no agreement can be reached between the supervisors, the transfer request should be forwarded to the TC 2900 docketing POC for a final decision.

If an examiner encounters an assigned application that appears to be improper for their docket based on a factor other than the classification of the application (e.g. could be considered a utility application), the examiner should send an email to the TC 2900 docketing POC for evaluation of the application. If the application is deemed improper for that examiner's docket, the application will be removed from the examiner's docket, and will be appropriately reassigned by the TC 2900 docketing POC. In the event the application is deemed proper after reevaluation from the TC 2900 docketing POC, the case will be returned to the originating examiner's docket and will be examined as a design application.

II. TRANSFER OF PLANT APPLICATIONS

All plant patent applications under 35 U.S.C. 161 are assigned and examined in Art Unit (AU) 1661. If an application is accidently routed to the AU which is not a plant application, the application will be manually rerouted to OPAP for routing to the appropriate AU.

909.02(e) General Guidelines Governing the Assignment of Nonprovisional Design and Plant Applications for Examination [R-07.2022]

This section applies only to nonprovisional design and plant applications. It does not apply to provisional applications since such applications are not examined. For nonprovisional utility applications see MPEP § 909.01.

The following are only general guides, and exceptions frequently arise because of some unusual condition. Patent examiners are confronted with an already existing classification made up of newly revised classes, those revised years ago and which have somewhat outgrown their definitions and limits, and still others made a generation ago and never changed. Also, these classes are based on different theories and plans, some on art, some on structure, some on functions, and some on the material worked upon. The patent examiners cannot change this existing condition as each application comes up for assignment, but must seek to place the cases where they are appropriately assigned. An application will be assigned as follows:

(A) The assignment of nonprovisional design and plant applications follows, as far as possible, the rules or principles governing the classification of patents. Applications are generally assigned on the basis of where the application would have an original classification, if the claims it contains were in a patent.

(B) The criteria by which the original classification is determined are set forth in MPEP § 903.07.

(C) The claims and statement of invention are generally taken as they read; however, claims must be read in light of the disclosure (claimed disclosure). Any attempt to go behind the record and decide the case upon what is deemed the "real invention" would, it is believed, introduce more errors than such action would cure. Supervisory patent examiners (SPEs) cannot possess the specific knowledge of the state of the art in all the classes that the patent examiners collectively possess. Further, such questions are matters of merit for the examiners to determine and are often open to argument and are a subject for appeal.

(D) Within a class, looking down from the top of the schedule, the OR subclass is chosen from among the classifications of the claimed disclosure according to whichever one is the most indented subclass of the first subclass array.

(E) As stated in MPEP § 903.07, the location of the United States patents constituting the prior art is generally controlling over all else. (Note: Where time permits, obvious misplacements of the patents constituting the prior art are corrected, but to straighten all lines as the cases come up for assignment would require the time of several people.)

(F) Ordinarily, an application cannot be assigned to a class which includes one element or part only of several claimed in combination. The claim is treated in its entirety.

(G) An examiner seeking the transfer of a case may make a search, both of their own class and the class to which they think the case should be transferred, and the examiner in charge of the art unit should ensure the record includes the result of the search.