

**COMPARISON OF ACCELERATED EXAMINATION SUPPORT DOCUMENT AND
EXAMINATION SUPPORT DOCUMENT UNDER 37 CFR 1.265**

Accelerated Examination Support Document (AESD)	Examination Support Document (ESD) under § 1.265
<p>AESD is required if applicant files a petition to make special under the accelerated examination procedure.</p> <p>Note: an AESD has more requirements than an ESD under 1.265. The substantive differences are shown in italics.</p>	<p>ESD in compliance with § 1.265 is required if applicant presents more than 5 independent claims or 25 total claims in an application. See § 1.75(b).</p>
<p>Preexamination search statement A statement that a preexamination search was conducted, including an identification of:</p> <ol style="list-style-type: none"> (1) the field of search by United States class and subclass and the date of the search, where applicable, and, (2) for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search. <p>Preexamination search The preexamination search must involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant justifies with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated source and includes such a justification with the preexamination search statement.</p> <p>The preexamination search must be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable interpretation.</p> <p><i>The preexamination search must also encompass the disclosed features that may be claimed.</i></p>	<p>Preexamination search statement A statement that a preexamination search in compliance with § 1.265(b) was conducted, including an identification of:</p> <ol style="list-style-type: none"> (1) the field of search by United States class and subclass and the date of the search, where applicable, and, (2) for database searches, the search logic or chemical structure or sequence used as a query, the name of the file or files searched and the database service, and the date of the search. <p>Preexamination search under § 1.265(b) The preexamination search must involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant justifies with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated source and includes such a justification with the preexamination search statement.</p> <p>The preexamination search must be directed to the claimed invention and encompass all of the limitations of each of the claims (whether in independent or dependent form), giving the claims the broadest reasonable interpretation.</p>

<p>Listing of References Deemed Most Closely Related:</p> <p>IDS in compliance with § 1.98 citing reference(s) deemed most closely related to the subject matter of each of the claims.</p>	<p>Listing of References Deemed Most Closely Related:</p> <p>A listing of the reference(s) deemed most closely related to the subject matter of each of the claims (whether in independent or dependent form) in compliance with § 1.265(c).</p>
<p>Identification of Claim Limitations Disclosed by References:</p> <p>For each reference cited, the AESD must include an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference.</p>	<p>Identification of Claim Limitations Disclosed by References:</p> <p>For each reference cited, an identification of all the limitations of each of the claims (whether in independent or dependent form) that are disclosed by the reference.</p> <p><i>Section 1.265(f) provides an exemption to applications filed by a small entity as defined by the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The exemption is for the requirement in § 1.265(a)(3) that an ESD must include an identification of all the claim limitations (whether in independent or dependent form) that are disclosed by the cited references.</i></p>
<p>Detailed Explanation of Patentability:</p> <p>A detailed explanation of how <i>each of the claims</i> is patentable over the references with the particularity required by § 1.111(b) and (c).</p>	<p>Detailed Explanation of Patentability:</p> <p>A detailed explanation particularly pointing out how each of the <i>independent claims</i> is patentable over the cited references.</p>
<p>Statement of Utility:</p> <p><i>A concise statement of the utility of the invention for each independent claim (unless the application is a design application).</i></p>	

Showing of Support under 35 U.S.C. 112, ¶1

A showing of where each limitation of each of the claims (whether in independent or dependent form) finds support under the first paragraph of 35 U.S.C. 112 in the written description of the specification.

If the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of each of the claims finds support under the first paragraph of 35 U.S.C. 112 in each such priority or benefit application in which such support exists.

For each means- (or step-) plus-function claim element invoking consideration under 35 U.S.C. 112, ¶ 6:

- (1) The claim limitation must be identified as means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6; and
- (2) The structure, material, or acts in the specification that correspond to each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6, must be identified.

Showing of Support under 35 U.S.C. 112, ¶1

A showing of where each limitation of each of the claims (whether in independent or dependent form) finds support under the first paragraph of 35 U.S.C. 112 in the written description of the specification.

If the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of each of the claims finds support under the first paragraph of 35 U.S.C. 112 in each such priority or benefit application in which such support exists.

For each means- (or step-) plus-function claim element invoking consideration under 35 U.S.C. 112, ¶ 6:

- (1) The claim limitation must be identified as means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6; and
- (2) The structure, material, or acts in the specification that correspond to each means- (or step-) plus-function claim element that invokes consideration under 35 U.S.C. 112, ¶ 6, must be identified.

Identification of any cited references that may be disqualified as prior art under 103(c) as amended by the CREATE Act.

Supplemental AESD:

A supplemental AESD is required if the claims have been amended such that the previously filed ESD no longer covers each of the claims.

2) If applicant files a separate IDS, applicant must also file a supplemental AESD unless the separate IDS cites only references that are less closely related to the subject matter of one or more claims than the references cited in the AESD/IDS.

Supplemental ESD:

(1) A supplemental ESD is required if the claims have been amended such that the previously filed ESD no longer covers each of the claims.

(2) If an IDS is filed in an application in which an examination support document is required and has been filed, the applicant must also file a supplemental ESD addressing the reference(s) in the manner required under 1.265(a)(3) and (a)(4) unless the IDS cites only references that are less closely related to the subject matter of one or more claims (whether in independent or dependent form) than the references cited in the ESD listing of references.