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[FR Doc. E9–15577 Filed 6–30–09; 8:45 am]

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DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

37 CFR Part 1

[Docket No.: PTO–P–2009–0025]

RIN 0651–AC34

July 2009 Revision of Patent Cooperation Treaty Procedures


ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO) is revising the rules of practice in title 37 of the Code of Federal Regulations (CFR) to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that take effect on July 1, 2009. These amendments result in a change to the procedure under the PCT whereby applicants may make amendments to the claims in an international application.

DATES: Effective Date: The changes to 37 CFR 1.485 are effective on July 1, 2009.

FOR FURTHER INFORMATION CONTACT: Richard R. Cole, Senior Legal Examiner, Office of PCT Legal Administration (OPCTLA) directly by telephone at (571) 272–3281, or by facsimile at (571) 273–0459.

SUPPLEMENTARY INFORMATION: During the September 2008 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted various amendments to the Regulations under the PCT that enter into force on July 1, 2009. The amended PCT Regulations were published in the PCT Gazette of December 11, 2008 (38/2008), at pages 166–167. The amendments include provisions which modify the procedures for making amendments to the claims in an international application.

The Patent Cooperation Treaty (PCT) enables an applicant to file one application, “an international application” or a “PCT application,” in a standardized format in a PCT Receiving Office and have that application acknowledged as a regular national or regional filing in as many Contracting States to the PCT as the applicant desires. The requirements for PCT applications are specified in the PCT Treaty Articles and the Regulations issued under the PCT Treaty (the PCT Regulations). Certain requirements of the PCT Treaty and PCT Regulations are reiterated in the USPTO’s rules of practice in 37 CFR for the convenience of patent applicants. Changes to the PCT Regulations (PCT Rules 46.5 and 66.8) that govern the manner of making amendments to the claims in international applications will become effective on July 1, 2009. Under the current PCT Regulations, applicants are required to submit replacement pages for only those pages which contain changes, where under the revised PCT Regulations applicants will be required to submit a complete set of the claims when amending any of the claims. The USPTO’s rules of practice in 37 CFR (37 CFR 1.485) set forth the current practice for amending claims and must be changed to be consistent with the changes to the PCT Regulations.

The changes to 37 CFR 1.485 are effective on July 1, 2009, and apply to any amendment filed in an international application on or after that date regardless of the filing date of the international application.

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, part 1, is amended as follows:

Section 1.485: Section 1.485 is amended to require that amendments to the claims in a PCT international application must be made in accordance with PCT Rule 66.8.

Rulemaking Considerations

A. Administrative Procedure Act: The change in this final rule merely revises the USPTO’s rules of practice to conform to the requirements of the PCT Regulations that become effective on July 1, 2009. 35 U.S.C. 364(a) provides that international applications shall be processed by the USPTO in accordance with the applicable provisions of the PCT, the Regulations under the PCT and Title 35 of the United States Code. Therefore, these rule changes involve interpretive rules or rules of agency practice and procedure under 5 U.S.C. 553(b)(A). Accordingly, the changes in this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d). See Cooper Techs. Co. v. Durkee, 536 F.3d 1330, 1336–37, 87 U.S.P.Q.2d 1705, 1710 (Fed. Cir. 2008) (stating that 5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), does not require notice and comment on rulemaking for “interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice.’’ (quoting 5 U.S.C. 553(b)(A))).

B. Regulatory Flexibility Act: As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), neither a regulatory flexibility analysis nor a certification under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) is required. See 5 U.S.C. 603.

C. Executive Order 13132 (Federalism): This rulemaking does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

D. Executive Order 12866 (Regulatory Planning and Review): This rulemaking has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

E. Executive Order 13175 (Tribal Consultation): This rulemaking will not: (1) Have substantial direct effects on one or more Indian Tribes; (2) impose substantial direct compliance costs on Indian Tribal governments; or (3) preempt Tribal law. Therefore, a Tribal summary impact statement is not required under Executive Order 13175 (Nov. 6, 2000).

F. Executive Order 13211 (Energy Effects): This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

G. Executive Order 12988 (Civil Justice Reform): This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (Feb. 5, 1996).

H. Executive Order 13045 (Protection of Children): This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (Apr. 21, 1997).

I. Executive Order 12630 (Taking of Private Property): This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (Mar. 15, 1988).

J. Congressional Review Act: Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of
under the National Environmental on the quality of environment and is
This rulemaking will not have any effect
et seq.
small governments. Therefore, no
adjusted) or more in any one year, and
aggregate, of 100 million dollars (as
result in the expenditure by the private
sector of 100 million dollars (as
adjusted) or more in any one year, or a
Federal private sector mandate that will
result in the expenditure by the private
sector of 100 million dollars (as
adjusted) or more in any one year, and
will not significantly or uniquely affect
small governments. Therefore, no
actions are necessary under the
provisions of the Unfunded Mandates
et seq.
L. National Environmental Policy Act:
This rulemaking will not have any effect
on the quality of environment and is
thus categorically excluded from review
under the National Environmental
et seq.
M. National Technology Transfer and
Advancement Act: The requirements of
section 12(d) of the National
Technology Transfer and Advancement
Act of 1995 (15 U.S.C. 272 note) are not
applicable because this rulemaking does
not contain provisions which involve
the use of technical standards.
N. Paperwork Reduction Act: This
notice involves information collection
requirements which are subject to
review by the Office of Management and
Budget (OMB) under the Paperwork
Reduction Act of 1995 (44 U.S.C. 3501
et seq.). The collection of information
involved in this notice has been
reviewed and approved by OMB under
OMB control number 0651–0021. The
USPTO is not resubmitting an
information collection package to OMB
for its review and approval because the
changes in this notice do not affect the
information collection requirements
associated with the information
collection under OMB control number
0651–0021.
Interested persons are requested to
send comments regarding these
information collections, including
suggestions for reducing this burden, to:
(1) The Office of Information and
Regulatory Affairs, Office of
Management and Budget, New
Executive Office Building, Room 10202,
725 17th Street, NW., Washington, DC
20503, Attention: Desk Officer for the
Patent and Trademark Office; and (2)
Robert A. Clarke, Director, Office of
Patent Legal Administration,
Commissioner for Patents, P.O. Box
1450, Alexandria, VA 22313–1450.
Notwithstanding any other provision of
law, no person is required to respond
to nor shall a person be subject to a
penalty for failure to comply with a
collection of information subject to the
requirements of the Paperwork
Reduction Act unless that collection of
information displays a currently valid
OMB control number.
List of Subjects in 37 CFR Part 1
Administrative practice and procedure,
Courts, Freedom of Information,
Inventions and patents, Reporting and
recordkeeping requirements, Small
businesses.
PART I—RULES OF PRACTICE IN
PATENT CASES
1. The authority citation for 37 CFR
part 1 continues to read as follows:
2. Section 1.485 is revised to read as
follows:
§ 1.485 Amendments by applicant during
international preliminary examination.
The applicant may make amendments
at the time of filing the Demand. The
applicant may also make amendments
within the time limit set by the
International Preliminary Examining
Authority for reply to any notification
under § 1.484(b) or to any written
opinion. Any such amendments must be
made in accordance with PCT Rule 66.8.
Dated: June 24, 2009.
John J. Doll,
Acting Under Secretary of Commerce
for Intellectual Property and Acting
Director of the United States Patent and
Trademark Office.
[FR Doc. E9–15303 Filed 6–30–09; 8:45 am]
BILLING CODE 3510–16–P
DEPARTMENT OF VETERANS
AFFAIRS
38 CFR PART 17
RIN 2900–AM99
Civilian Health and Medical Program of
the Department of Veterans Affairs
(CHAMPVA): Preauthorization of
Durable Medical Equipment
AGENCY: Department of Veterans Affairs.
ACTION: Final rule.
SUMMARY: This document amends the
Department of Veterans Affairs (VA)
medical regulations for the Civilian
Health and Medical Program of the
Department of Veterans Affairs
(CHAMPVA) preauthorization section
by increasing the dollar ceiling for
purchase or rental of durable medical
equipment (DME) from $300 to $2,000.
DATES: Effective Date: The final rule is
effective July 31, 2009.
FOR FURTHER INFORMATION CONTACT:
Lisa Brown, Chief, Policy Management
Division, VA Health Administration
Center, P.O. Box 460948, Denver,
Colorado 80246; (303) 331–7882. (This
is not a toll-free number).
SUPPLEMENTARY INFORMATION: In a
document published in the Federal
Register on October 28, 2008 (73 FR
63914), VA proposed to amend its
medical regulations at 38 CFR Part 17
concerning CHAMPVA benefits.
Specifically, it proposed to amend
§ 17.273(e) regarding durable medical
equipment (DME) by increasing the
dollar ceiling for purchase or rental of
durable medical equipment (DME) from
the $300 to $2,000.
CHAMPVA is a VA medical benefits
program for (1) spouses and children of
veterans who have a permanent and
total service-connected disability and
(2) surviving spouses and children of
veterans who died as a result of a
service-connected disability or while
rated permanently and totally disabled
from a service-connected disability, or
who died in the active military, naval,
or air service in the line of duty and
there is not otherwise entitlement to
Department of Defense TRICARE
benefits. DME is included among the
health care items that are available to
CHAMPVA beneficiaries. To ensure that
DME purchases and rental are medically
necessary, appropriate and within the
Department’s budgetary constraints, VA
requires non-VA providers to obtain
preauthorization before the purchase or
rental of DME for a CHAMPVA
beneficiary when the cost of the DME
exceeds $300. DME purchases greater
than $300 are currently reviewed twice,
otherwise it is submitted for
preauthorization and again when the
claim is officially submitted for
payment.
The current rate was put in place in
1973. Since the cost of common DME
items has steadily increased, this ceiling
can no longer reflects current costs. Raising
the dollar amount to $2,000 would make the
administrative processing of DME
claims easier for CHAMPVA
beneficiaries and providers as well as
for VA, since claims under that amount
will only be reviewed once.
VA provided a 60-day comment
period that ended December 29, 2008.