

Notice that Lengthy Tables will be Published Differently in Patents, Statutory Invention Registrations and Patent Application Publications

And Notice of Pilot Program With Respect to Lengthy Tables

Applications containing tables on more than two hundred consecutive pages, or large numbers of tables (lengthy tables) cause significant problems for the United States Patent and Trademark Office (USPTO or Office). For example, lengthy tables submitted only on paper require greater resources to maintain images of the patent application as originally filed. In addition, a patent application with lengthy tables is more expensive for the Office to publish, especially if the lengthy tables were not submitted in electronic form. In view of the Office processing problems caused by applications with lengthy tables, the Office encourages applicants to submit lengthy tables on compact disc (CD) in ASCII text as provided in 37 CFR 1.52(e), as an appendix to the specification as provided in 37 CFR 1.77(b)(4). The Office is also announcing that lengthy tables in an appropriate electronic form will not be published in patent application publications, patents and Statutory Invention Registrations (SIRs)(collectively, patent documents). Instead, the lengthy tables shall be separately published by posting the lengthy tables on the sequence homepage of the USPTO Internet web site. In addition, this notice announces a pilot program for patent document publishing purposes only wherein, in response to an Office request, applicants may submit lengthy tables in electronic formats other than ASCII text so the lengthy tables can be posted on the sequence homepage of the USPTO web site instead of being published in the patent document. If the pilot program is adopted, it will be set forth in one or more future rule makings.

The Office encourages patent applications to be submitted in electronic form through the Electronic Filing System (EFS), and for tables, especially lengthy tables, to be submitted in electronic form as an appendix to the specification (with the table on CD if EFS is not used). Lengthy tables should not be embedded in the specification, and should instead be included as a compact disc appendix as provided in 37 CFR 1.77(b)(4). When a table is submitted on CD instead of on paper, the specification of the patent application must contain an incorporation-by-reference of the material on the CD in a separate paragraph as specified in 37 CFR 1.52(e)(5), which should be before the background of the invention (see 37 CFR 1.77(b)(4)). If the reference to a table on CD is placed elsewhere in the specification, the table is likely to be overlooked in the publication of any patent, patent application publication or SIR.

If lengthy tables are submitted on a CD as provided in 37 CFR 1.52(e), or pursuant to the pilot program discussed below, then any patent, patent application publication or SIR will not include the lengthy tables in the patent document. Instead of being published as part of the patent document, lengthy tables will be published separately on the sequence homepage of the USPTO Internet web site (<http://seqdata.uspto.gov>) as an XML file. See, for example, patent application publication nos. US 2003/0235811 A1 and US 2003/0237110 A9.

When the lengthy tables are separately published on the USPTO Internet web site, there will be a standardized "Lengthy Table" statement, in the patent document following of the detailed description (see 37 CFR 1.77(b)(8)). For example, a patent application publication would contain the following text:

LENGTHY TABLE

The patent application contains a lengthy table section. A copy of the table is available in electronic form from the USPTO web site (<http://seqdata.uspto.gov/?pageRequest=docDetail&docID=20047654321>). An electronic copy of the table will also be available from the USPTO upon request and payment of the fee set forth in 37 CFR 1.19(b)(3).

For a patent, the following page-wide text will appear:

The patent contains a lengthy table section. A copy of the table is available in electronic form from the USPTO web site (<http://seqdata.uspto.gov/?pageRequest=docDetail&docID=7654321B1>). An electronic copy of the table will also be available from the USPTO upon request and payment of the fee set forth in 37 CFR 1.19(b)(3).

The page-wide “Lengthy Table” statement for a SIR would be similar and would state:

LENGTHY TABLE

The statutory invention registration contains a lengthy table section. A copy of the table is available in electronic form from the USPTO web site (<http://seqdata.uspto.gov/?pageRequest=docDetail&docID=H0009999H1>). An electronic copy of the table will also be available from the USPTO upon request and payment of the fee set forth in 37 CFR 1.19(b)(3).

If an applicant requires an electronic copy of a table that was not printed in the document, applicant must download the table from the USPTO Internet web site, or specifically request and pay for the electronic copy. Document Services Division may be accessed through <https://www3.uspto.gov/oems25p/>, by telephone at (703) 308-9726 or (800) 972-6382, or by facsimile at (703) 308-7048.

Patents, SIRs and patent application publications available on DLT through subscription will continue to include the lengthy tables. In general, lengthy tables (and lengthy sequence listings) are available through two sources: the USPTO Internet web site (<http://seqdata.uspto.gov>) (free download), or as part of the Red Book XML products on DLT (annual subscription). For further information about the availability of patent information via subscription or the Web, call (703) 306-2600 or visit www.uspto.gov.

PILOT PROGRAM

If a patent application includes a lengthy table submitted only on paper (as explained above, a lengthy table is either a table or set of tables that are located on more than 200 consecutive pages of a patent application or a large number of tables), the Office is piloting a program in which the applicant is contacted and requested to supply the Office with an electronic copy of the lengthy table. If the Office of Publications is able to obtain the lengthy table in XML or an electronic format convertible to XML, the lengthy table will be posted on the sequence homepage of the USPTO Internet web site (<http://seqdata.uspto.gov>) instead of including the table in the published patent document.

If the applicant does not have the lengthy table available in XML table format, or an electronic format that is convertible to XML table format, publication processing will continue using the paper copy. If the lengthy table is available in XML table format or an electronic format (preferably Word® or Excel®) that is convertible to XML table format, applicant will be requested to hand carry or mail two compact discs or tapes with the lengthy table and a statement that the lengthy table submitted in electronic form is the same as the lengthy table previously submitted, as part of the patent application. The address that must be used is:

Office of Patent Publication
Office of the Director
2231 Crystal Drive
Suite 907
Arlington, VA 22202

(Note that the Alexandria Post Office Box address for the Office should not be used for these submissions. See Revised Procedures for Papers Requiring Immediate Attention, 1280 Off. Gaz. Pat. Office Notices 917 (March 23, 2004))

Although the Office discourages the embedding of a lengthy table, if an applicant does embed a lengthy table in the specification of a patent application, the Office will attempt to obtain a replacement document in electronic form pursuant to the pilot program. If the embedded lengthy table is replaced by a table in an electronic format (either XML or a format convertible to XML) in response to a request, when the patent document is published, the following single-column statement will be inserted in place of each replaced table in the document:

LENGTHY TABLE

Lengthy table referenced here. Please refer to the end of the specification for access instructions.

Note: if an application is filed with a table in an electronic format (such as Word® or Excel®) or in a medium (e.g., tape) that does not comply with 37 CFR 1.52(e) the Office will require that the table be submitted on paper, or resubmitted in compliance with 37 CFR 1.52(e) (e.g., submitted in ASCII on CD). Thus, applicants should not voluntarily submit lengthy tables in electronic form unless they are in compliance with 37 CFR 1.52(e).

Comments are invited in response to this Pilot Program. Comments may be directed by e-mail to: Patent.Practice@uspto.gov, or by fax to (703)872-9411

Questions regarding this change in practice should be directed to Lisa Hobbs, Biotechnology/Chemistry Project Manager, Search and Information Resources Administration, by telephone at (703) 308-6573, or by e-mail at lisa.hobbs@uspto.gov, Karin Ferriter, Senior Legal Advisor, Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, by telephone at (703) 306-3159, or by e-mail at karin.ferriter@uspto.gov, or Tammy Koontz, Program Manager, Pre-Grant Publication Division, Office of Patent Publication, by telephone at (703)605-4292, or by e-mail at Tammy.Koontz@uspto.gov.

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