## Chapter 2800: Supplemental Examination

- 2801 Introduction
- 2802 Supplemental Examination
- 2803 Persons Who May File a Request for Supplemental Examination
  - 2803.01 Inquiries from Persons Other Than the Patent Owner
  - 2803.02 Public Access
- 2804 Representative of Patent Owner
  - 2804.01 Withdrawal of Attorney or Agent
- 2805 Correspondence with Patent Owner; Patent Owner Address
- 2806 How to File Papers in a Supplemental Examination Proceeding and in Any Resulting Ex Parte Reexamination Proceeding
  - I. Electronic Submission
  - II. Paper Form (Hard Copy) Submissions
  - III. Facsimile Transmission
- 2807 Format of Papers Filed in a Supplemental Examination Proceeding
- 2808 Time for Requesting Supplemental Examination
- 2809 Items of Information
  - I. LIMIT ON THE NUMBER OF ITEMS OF INFORMATION SUBMITTED AS PART OF A SINGLE REQUEST
  - II. REQUIREMENTS FOR AN ITEM OF INFORMATION
    - A. An Item of Information Must Be in Writing
    - B. An Item of Information Must Be Submitted as a Separate Document, Where Applicable
    - C. When an Item of Information May be Contained within the Body of the Request
  - III. HOW ITEMS OF INFORMATION ARE COUNTED

## IV. INFORMATION THAT SHOULD NOT BE SUBMITTED WITH THE REQUEST

- 2809.01 Information Relating to the Correction of Factual Information
  - I. SUPPLEMENTAL EXAMINATION IS LIMITED TO A DETERMINATION OF WHETHER THE REQUEST RAISES A SUBSTANTIAL NEW QUESTION OF PATENTABILITY
  - II. RECOMMENDED INFORMATION TO BE SUBMITTED WITH THE REQUEST
  - III. INFORMATION THAT SHOULD NOT BE SUBMITTED WITH THE REQUEST
- 2810 Fees Due on Filing a Supplemental Examination Request
  - 2810.01 Document Size Fees
- 2811 Content of Request for Supplemental Examination
  - I. An Identification of the Patent for Which Supplemental Examination is Requested
  - II. A List of All Items of Information Submitted With or as Part of the Request
  - III. A List of Prior or Concurrent Post-Patent Office Proceedings
  - IV. Identification of Each Claim of the Patent for which Supplemental Examination is Requested
  - V. A Separate, Detailed Explanation of Relevance and Manner of Applying Each Item of Information to Each Patent Claim for Which Supplemental Examination is Requested
  - VI. A Copy of the Patent for which Supplemental Examination is Requested, and a Copy of Any Disclaimer or Certificate Issued for the Patent
  - VII. A Copy of Each Item of Information
  - VIII. A Summary of the Relevant Portions of Any Document, Other Than the Request, Which is Over Fifty Pages in Length
  - IX. An Identification of the Owner(s) of the Entire Right, Title, and Interest in the Patent Requested to be Examined, and a Submission Under 37 CFR 3.73(c)
- 2811.01 Detailed Explanation of the Relevance and Manner of Applying Each Item of Information
  - I. General
  - II. Requirement Cannot Be Satisfied By Incorporating by Reference a Paper from Another Proceeding or By Relying on a Paper by a Third Party

- III. Detailed Explanation of Information Limited to Correction of Factual Information
- 2811.02 Optional Content
  - I. A Cover Sheet
  - II. A Table of Contents
  - III. An Explanation of How the Claims Patentably Distinguish Over the Items of Information
  - IV. An Explanation of Why Each Item of Information Submitted with the Request Does or Does Not Raise a Substantial New Question of Patentability
- 2812 Initial Processing of a Request for Supplemental Examination
  - 2812.01 Filing Date of the Request
  - 2812.02 Noncompliant Request for Supplemental Examination
  - 2812.03 Corrected Request
  - 2812.04 Termination Due to Defective/Improper Request or Corrected Request
- 2813 Handling of Papers, Other Than a Request, in a Supplemental Examination Proceeding
  - I. Actions on Petitions or Papers, Other Than the Request, May Be Held in Abeyance
  - II. Unauthorized or Improper Papers
    - A. Third Party Papers
    - B. Authorized but Defective Papers
    - C. Application Data Sheet (ADS)
  - 2813.01 Amendments
- 2814 Interviews Are Prohibited
- 2815 Time for Deciding Request
- 2816 Determination on the Request
  - 2816.01 Claims Considered in Making the Determination
  - 2816.02 Criteria for Making the Determination
    - I. Substantial New Question of Patentability (SNQ)

II. Policy in Specific Situations

## 2816.03 Content of the Determination

- I. The Supplemental Examination Certificate
- II. The Reasons for Substantial New Question of Patentability Determination (Reasons Document)
  - A. Where At Least One Substantial New Question of Patentability is Found
  - B. Where No Substantial New Question of Patentability is Found
  - C. Where the Request Includes Factual Information to be Corrected
  - D. Panel Review
  - E. Form Paragraphs for the Reasons for Substantial New Question of Patentability Determination
- 2816.04 Effect of the Determination
- 2817 Conclusion of Supplemental Examination
  - 2817.01 Processing and Electronic Issuance of Supplemental Examination Certificate
- 2818 Procedure after Conclusion of Supplemental Examination
  - 2818.01 After Determination Finding a Substantial New Question of Patentability
  - 2818.02 After Determination Finding No Substantial New Question of Patentability
- 2819 Discovery of Possible Material Fraud
- 2820 Submission of Notification of Other Prior or Concurrent Post-Patent Office Proceedings
- 2821 Multiple Post-Patent Office Proceedings
- 2822 Assignment of the Supplemental Examination Proceeding
- 2823 Differences Between an Ex Parte Reexamination Proceeding Ordered Pursuant to 35 U.S.C. 257 and an Ex Parte Reexamination Proceeding Ordered Pursuant to 35 U.S.C. 302