Third-Party Preissuance Submission under 37 CFR 1.290 Instructions for Paper Filing

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I. Introduction

Under 35 U.S.C. 122(e), a third party is permitted to submit patents, published patent applications or printed publications along with a concise description of the relevance of each document to the Office for consideration during the examination of a patent application.

Third-Party Submissions must be made (1) before the later of (i) 6 months after the date the application is first published by the Office, or (ii) the date of a first Office action on the merits rejecting any claim, and (2) before the date a notice of allowance is given or mailed.

A Third-Party Submission may be made in any non-provisional utility, design, or plant application, including any continuing application. The application may be pending or abandoned and need not be published. Third-Party Submissions are not permitted in provisional applications, issued patents, reissue applications and reexamination proceedings.

The resource page for Third-Party Submissions is located at:

www.uspto.gov/patent/initiatives/third-party-preissuance-submissions.html.

II. Requirements

A Third-Party Submission must include:

- (1) Form PTO/SB/429 (or equivalent document list), identifying the publications, or portions of publications, being submitted in accordance with § 1.290(e);
- (2) A concise description of the asserted relevance of each item identified in the document list;
- (3) A legible copy of each item identified in the document list, other than U.S. patents and U.S. patent application publications;
- (4) An English language translation of any non-English language item identified in the document list;
- (5) Statements by the party making the submission that:
 - (i) The party is not an individual who has a duty to disclose information with respect to the application under § 1.56; and
 - (ii) The submission complies with the requirements of 35 U.S.C. 122(e) and § 1.290; and
- (6) Any required fee, or the § 1.290(g) statement that the fee exemption applies to the submission.

Third-Party Submissions will be reviewed for compliance with 35 U.S.C. 122(e) and § 1.290 before being entered into the image file wrapper (IFW) record of an application. If a Third-Party Submission is found to be non-compliant, no time period will be set to file a corrected Third-Party Submission and amendments to a non-compliant submission previously filed will not be accepted. Instead, the third party may file another complete submission, provided the time period for doing so has not closed.

(1) Document List (PTO/SB/429)

The Office has developed a dedicated Web-based interface to permit electronic filing of Third-Party Submissions. The dedicated Web-based interface can be found by clicking on the "Existing submissions" pull-down menu or activity tile in Patent Center, and then clicking on the link entitled "File third-party preissuance submission." Detailed instructions for electronic filing are available at www.uspto.gov/patents/initiatives/third-party-preissuance-submissions. A completed form PTO/SB/429 will be automatically generated for electronic submissions.

Detailed field-by-field instructions for completing the form PTO/SB/429 are listed below. Use form PTO/SB/429 **for paper submissions only**.

Third-Party Submission under 37 CFR 1.290 Header:

Application Number	Enter the U.S. application number (i.e., the series code and serial number) to
	which the Third-Party Submission is directed, for example 99/999,999.

U.S. Patents and U.S. Patent Application Publications:

Cite No.	Enter a citation number, increment by one for each subsequent citation.
Document Number	Enter the 7-digit U.S. Patent Number, for example 9,999,999, or 11-digit U.S. Patent Application Publication Number, for example YYYY/9999999. If known, enter the kind of U.S. Patent or U.S. Patent Application Publication by the appropriate symbols indicated on the document under WIPO Standard ST. 16. See the attached WIPO ST.16 Table.
Issue Date or Publication	Enter the issue date of the U.S. Patent or the publication date of the U.S. Patent
Date	Application Publication.
First Named Inventor	Enter the first and last name of the first named inventor of the U.S. Patent or U.S. Patent Application Publication.

Foreign Patents and Published Foreign Patent Applications:

Cite No.	Enter a citation number, increment by one for each subsequent citation.
Country or Patent Office and Document Number	 Enter the country or patent office that issued the Foreign Patent or published the Foreign Patent Application by two-letter country code under WIPO Standard ST.3. See the attached WIPO ST.3 Table for the correct 2-digit code. Enter the document number of the Foreign Patent or Published Foreign Patent Application. For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. If known, enter the kind of Foreign Patent or Published Foreign Patent Application by the appropriate symbols indicated on the document under WIPO Standard ST.16. See the attached WIPO ST.16 Table.
Publication Date	Enter the publication date of the Foreign Patent or Published Foreign Patent Application.
Applicant, Patentee or First Named Inventor	Enter the name of the applicant, patentee or first named inventor of the Foreign Patent or Published Foreign Patent Application.
Translation Attached	Check the box if an English language translation of the Foreign Patent or Published Foreign Patent Application is attached to the Third-Party Submission.

Non-Patent Publications (e.g., journal article, Office action):

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Cite No.	Enter a citation number, increment by one for each subsequent citation.	
Author (if any), title of the	Enter the author (if any), title of the publication, page(s) being submitted,	
publication, page(s) being	publication date, publisher (where available), and place of publication (where	
submitted, publication date,	available) for the Non-Patent Publication. For publications obtained from the	
publisher (where available),	Internet, the uniform resource locator (URL) of the Web page that is the source	
place of publication (where	of the publication must be provided for the place of publication (e.g.,	
available)	"http://www.uspto.gov"). Additional information not specified above (e.g.,	
	journal title and volume/issue information for a journal article) may be provided.	
	Where the actual publication date is not known, provide a date of retrieval or a	
	time frame (e.g., a year, a month and year, a certain period of time) when the	
	document was available as a publication, in addition to attaching evidence that	
	establishes the document as a publication.	
Translation Attached	Check the box if an English language translation of the Non-Patent Publication	
	is attached to the Third-Party Submission.	
Evidence Attached	Check the box if evidence of publication is attached to the Third-Party	
	Submission. A Third-Party Submission must either include items that are	
	prima facie publications, or evidence that establishes that they are	
	publications. Such evidence may be in the form of, for example, affidavits,	
	declarations, a printout from a Web site, or any other appropriate format.	
	publications. Such evidence may be in the form of, for example, affidavits,	

Statements:

Statements:	
The party making the submission is not an individual who has a duty to disclose information with respect to the above-identified application under 37 CFR 1.56.	Required statement under § 1.290(d)(5)(i).
The submission complies with the requirements of 35 U.S.C. 122(e) and 37 CFR 1.290.	Required statement under § 1.290(d)(5)(ii).
The following fee set forth in 37 CFR 1.290(f) has been submitted herewith:	Select this box if a fee is due for the Third-Party Submission.
Regular Undiscounted	Select this box if the party making the submission is not asserting small entity status.
Small Entity	Select this box if the party making the submission asserts that the party qualifies as a small entity. A third party is not eligible for the micro entity discount.
The fee set forth in 37 CFR 1.290(f) is not required because this submission lists three or fewer total items and, to the knowledge of the person signing the statement after making reasonable inquiry, this submission is the first and the only submission under 35 U.S.C. 122(e) filed in the above-identified application by the party making the submission or by a party in privity with the party.	Select this box if the fee exemption pursuant to § 1.290(g) applies to the Third-Party Submission.
This resubmission is being made responsive to a notification of non-compliance issued for an earlier filed third-party submission. The corrections in this resubmission are limited to addressing the non-compliance. As such, the party making this resubmission: (1) requests that the Office apply the previously-paid fee set forth in 37 CFR 1.290(f), or (2) states that no fee is required to accompany this resubmission as the undersigned is again making the fee exemption statement set forth in 37 CFR 1.290(g).	Select this box if making a resubmission responsive to a notification of non-compliance issued for an earlier filed Third-Party Submission. The resubmission must be made before the statutory time period for filing a Third-Party Submission has closed. The corrections in the resubmission must be limited to addressing the non-compliance, and the resubmission must be another complete submission, as the Office will not accept amendments to the non-compliant submission.

Signature:

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Signature	The Third-Party Submission is required to be signed. Enter the signature of the individual submitting the Third-Party Submission. The submitter of the Third-Party Submission will be identified but a real party in interest need not be identified.
Date	Enter the date of submission of the Third-Party Submission.
Name	Print/type the name of the submitter.
(Printed/Typed)	
Reg. No., if applicable	Enter the Registration Number of the U.S. Patent Practitioner who is submitting the Third-Party Submission, if applicable.
Examiner Signature/Date Considered	Examiner's signature will indicate that all items listed have been considered, except for citations through which a line is drawn. A copy of this form will be included with the next communication to applicant.

(2) Concise Description of Relevance

A Third-Party Submission must include a concise description of relevance for each item identified in the document list. The concise description of relevance is a statement of facts explaining how the document is of potential relevance to the examination of the application. A concise description of relevance is not an invitation for the third party to participate in the prosecution of the application. The concise description must not include arguments against patentability or set forth conclusions regarding whether one or more claims are patentable, and must not include proposed rejections of the claims or arguments relating to an Office action or an applicant's reply in the application. The concise descriptions of relevance for all items may be combined into a single paper. A concise description of relevance that prominently identifies the item or items in the document list to which the concise description pertains will help ensure that the screener and the examiner can readily identify it.

(3) Copies

A Third-Party Submission must include a legible copy of each item identified in the document list, other than U.S. Patents and U.S. Patent Application Publications. Where only a portion of a document is listed as an item in the document list, only submit a copy of that portion and not a copy of the entire document, and also submit copies of pages of the document that provide identifying information (e.g., a copy of the cover, title page, copyright information page, etc.).

(4) Translations

A Third-Party Submission must include an English language translation of any non-English language item identified in the document list. The translation should be clearly labeled as to which item in the document list it pertains. The translation may be a reliable machine translation and need not be certified. Where only a portion of a non-English language document is listed, only submit a translation of that portion and not a translation of the entire document.

(5) Statements

A Third-Party Submission must include a statement that (i) the party making the submission is not an individual who has a duty to disclose information with respect to the application under § 1.56, and (ii) the submission complies with the requirements of 35 U.S.C. 122(e) and § 1.290. Form PTO/SB/429 includes both statements.

(6) Fees

The regular undiscounted fee for a Third-Party Submission is currently \$180 for every 10 documents listed or fraction thereof, as set forth in 37 CFR 1.290(f) and 37 CFR 1.17(p). If the party making the submission qualifies as a **small entity** (e.g., a person, a small business concern, or a nonprofit organization), the fee is reduced. Consult the current fee schedule at: www.uspto.gov/learning-and-resources/fees-and-payment.

No fee is required if the *first* submission by a third party in an application lists 3 or fewer items, and is accompanied by the statement set forth in 37 CFR 1.290(g) (select the appropriate check box on form PTO/SB/429).

To satisfy the fee requirement for a resubmission after a finding of non-compliance where the proper fee set forth in 37 CFR 1.290(f) accompanied the non-compliant submission, the third party may request that the Office apply the previously-paid fee to the resubmission (select the appropriate check box on form PTO/SB/429). Similarly, to satisfy the fee requirement for a resubmission after a finding of non-compliance where the third party's non-compliant submission of three or fewer documents was accompanied by the fee exemption statement set forth in 37 CFR 1.290(g), the third party may state that the fee exemption applies to the resubmission (select the appropriate check box on form PTO/SB/429). The resubmission must be made before the statutory time period for filing a third-party submission has closed. The corrections in the resubmission must be limited to addressing the non-compliance, and the resubmission must be another complete submission, as the Office will not accept amendments to the non-compliant submission.

Fees may be paid by check, money order, credit card or deposit account. Checks and money orders must be made payable to the Director of the United States Patent and Trademark Office. Use the Credit Card Payment Form (PTO-2038) located at: www.uspto.gov/web/forms/2038.pdf when paying by credit card. Credit Card Payment Form (PTO-2038) will not be included among the records open to public inspection in the patent file. To protect credit card information, form PTO-2038 must not be submitted electronically through EFS-Web.

III. Request for Notification

A third-party may request e-mail notification in the event the submission is found to be compliant or non-compliant. To request such notification, file a <u>separate paper</u> with the Third-Party Submission clearly titled "REQUEST FOR NOTIFICATION REGARDING THIRD-PARTY PREISSUANCE SUBMISSION" and indicate the e-mail address to which the notification should be directed.

IV. Filing

Third-Party Submissions may be submitted in paper via first-class mail, United States Postal Service (USPS) Priority Mail Express® service pursuant to § 1.10, or delivery by hand. Facsimile transmission of Third-Party Submissions is not permitted. Include a self-addressed postcard with the Third-Party Submission to receive acknowledgment of receipt by return receipt postcard.

The mailing address for Third-Party Submissions submitted in paper via first-class mail or USPS Priority Mail Express® service is:

> Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450

The delivery address for Third-Party Submissions submitted via hand-delivery is:

Customer Service Window Room 1D80 Knox Building 501 Dulany Street Alexandria, VA 22314

A Third-Party Submission is filed on its <u>date of receipt</u> in the Office as set forth in § 1.6. The certificate of mailing provisions of § 1.8 do *not* apply to Third-Party Submissions; however, the USPS Priority Mail Express® service provisions of § 1.10 do apply to Third-Party Submissions. A Third-Party Submission filed via Priority Mail Express® is filed on its date of deposit with the USPS.

Additional Information

Telephone: 571-272-7704

E-mail: PatentPractice@uspto.gov

Microsite:

www.uspto.gov/patent/initiatives/third-party-preissuance-submissions.html

WIPO ST.3 Table (Country/Organization Codes)

LIST OF STATES, OTHER ENTITIES AND INTERGOVERNMENTAL ORGANIZATIONS, IN ALPHABETIC SEQUENCE OF THEIR SHORT NAMES, AND THEIR CORRESPONDING CODES (as of February 2015)

AFGHANISTAN	AF
AFRICAN INTELLECTUAL	OA
PROPERTY ORGANIZATION	
(OAPI) ⁽¹⁾	
AFRICAN REGIONAL	AP
INTELLECTUAL PROPERTY	/ u
INTELLECTUAL PROPERTY	
ORGANIZATION (ARIPO) (1)	
ALBANIA	AL
ALGERIA	DZ
ANDORRA	AD
ANGOLA	AO
ANGUILLA	Al
ANTIGUA AND BARBUDA	AG
ARGENTINA	AR
ARMENIA	AM
ARUBA	AW
AUSTRALIA	AU
AUSTRIA	AT
AZERBAIJAN	AZ
BAHAMAS	BS
BAHRAIN	
	BH
BANGLADESH	BD
BARBADOS	BB
BELARUS	BY
BELGIUM	BE
BELIZE	BZ
BENELUX OFFICE FOR	BX
INTELLECTUAL PROPERTY	_, ,
(2)	
(BOIP) (2)	
BENIN	BJ
BERMUDA	BM
BHUTAN	BT
BOLIVIA	ВО
DOOLUA AND LIEDZEG OVALA	-
I BOSNIA AND HERZEGOVINA	I BA
BOSNIA AND HERZEGOVINA ROTSWANA	BA BW/
BOTSWANA	BW
BOTSWANA BOUVET ISLAND	BW BV
BOTSWANA BOUVET ISLAND BRAZIL	BW BV BR
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM	BW BV BR BN
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA	BW BV BR BN BG
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM	BW BV BR BN
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA	BW BV BR BN BG
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO	BW BV BR BN BG BF
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI	BW BV BR BN BG BF BI KH
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON	BW BV BR BN BG BF BI KH
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA	BW BV BR BN BG BF BI KH CM CA
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE	BW BV BR BN BG BF BI KH CM CA
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE CAYMAN ISLANDS	BW BV BR BN BG BF BI KH CM CA CV KY
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE CAYMAN ISLANDS CENTRAL AFRICAN REPUBLIC	BW BV BR BN BG BF BI KH CM CA CV KY
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE CAYMAN ISLANDS CENTRAL AFRICAN REPUBLIC CHAD	BW BV BR BN BG BF BI KH CM CA CV KY CF TD
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE CAYMAN ISLANDS CENTRAL AFRICAN REPUBLIC CHAD CHILE	BW BV BR BN BG BF BI KH CM CA CV KY CF TD CL
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BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE CAYMAN ISLANDS CENTRAL AFRICAN REPUBLIC CHAD CHILE CHINA COMMUNITY PLANT VARIETY OFFICE (EUROPEAN COMMUNITY) (CPVO)	BW BV BR BN BG BF BI KH CM CA CV KY CF TD CL CN QZ
BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE CAYMAN ISLANDS CENTRAL AFRICAN REPUBLIC CHAD CHILE CHINA COMMUNITY PLANT VARIETY OFFICE (EUROPEAN COMMUNITY) (CPVO)	BW BV BR BN BG BF BI KH CM CA CV KY CF TD CL CN QZ
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BOTSWANA BOUVET ISLAND BRAZIL BRUNEI DARUSSALAM BULGARIA BURKINA FASO BURUNDI CAMBODIA CAMEROON CANADA CAPE VERDE CAYMAN ISLANDS CENTRAL AFRICAN REPUBLIC CHAD CHILE CHINA COMMUNITY PLANT VARIETY OFFICE (EUROPEAN COMMUNITY) (CPVO) COLOMBIA CONGO (see Congo, below; Democratic Republic of the Congo)	BW BV BR BN BG BF BI KH CM CA CV KY CF TD CL CN QZ
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MYANMAR	MM
NAMIBIA	NA
NAURU	NR
	NP
NEPAL	
NETHERLANDS	NL
NEW ZEALAND	NZ
NICARAGUA	NI
NIGER	NE
NIGERIA	NG
NORDIC PATENT INSTITUTE	XN
	VIN
(NPI)	
NORTHERN MARIANA ISLANDS	MP
NORWAY	NO
OFFICE FOR HARMONIZATION	EM
IN THE INTERNAL MARKET	
(TRADE MARKS AND DESIGNS)	
(OHIM)	
OMAN	OM
PAKISTAN	PK
PALAU	PW
PANAMA	PA
PAPUA NEW GUINEA	PG
PARAGUAY	PY
PATENT OFFICE OF THE	
	GC
COOPERATION COUNCIL FOR	
THE ARAB STATES OF THE	
GULF (GCC)	
PERU	PE
PHILIPPINES	PH
POLAND	PL
PORTUGAL	PT
QATAR	QA
REPUBLIC OF KOREA	KR
REPUBLIC OF MOLDOVA	MD
ROMANIA	RO
RUSSIAN FEDERATION	RU
RWANDA	RW
SAINT HELENA	SH
SAINT KITTS AND NEVIS	KN
SAINT LUCIA	LC
SAINT VINCENT AND THE	VC
GRENADINES	
SAMOA	WS
SAN MARINO	SM
SAO TOME AND PRINCIPE	ST
SAUDI ARABIA	
	SA
SENEGAL	SN
SERBIA	RS
SEYCHELLES	SC
SIERRA LEONE	SL
SINGAPORE	SG
SINT MAARTEN (Dutch part)	SX
SLOVAKIA	SK
	ı or
SLOVENIA	SI
SLOVENIA SOLOMON ISLANDS	SI SB
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SURINAME	SR
SWAZILAND	SZ
SWEDEN	SE
SWITZERLAND	CH
SYRIAN ARAB REPUBLIC	SY
TAIWAN, PROVINCE OF CHINA	TW
TAJIKISTAN	TJ
TANZANIA (see United Republic of	
Tanzania)	
THAILAND	TH
THE FORMER YUGOSLAV	MK
REPUBLIC OF MACEDONIA	
THE HONG KONG SPECIAL	HK
ADMINISTRATIVE REGION OF	
THE PEOPLE'S REPUBLIC OF	
CHINA	
TIMOR-LESTE	TL
TOGO.	TG
TONGA	TO
TRINIDAD AND TOBAGO	TT
TUNISIA	TN
TURKEY	TR
TURKMENISTAN	TM
TURKS AND CAICOS ISLANDS	TC

TUVALU	TV
UGANDA	UG
UKRAINE	UA
UNITED ARAB EMIRATES	AE
UNITED KINGDOM	GB
UNITED REPUBLIC OF TANZANIA	TZ
UNITED STATES OF AMERICA	US
URUGUAY	UY
UZBEKISTAN	UZ
VANUATU	VU
VATICAN CITY STATE (See Holy	
See)	
VENEZUELA	VE
VIET NAM	VN
VIRGIN ISLANDS, BRITISH	VG
WESTERN SAHARA (5)	EH
WORLD INTELLECTUAL	WO, IB
PROPERTY ORGANIZATION	
(WIPO) (INTERNATIONAL BUREAU	
OF) (4)	
YEMEN	YE
ZAMBIA	ZM
ZIMBABWE	ZW

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- (5) Provisional name.

WIPO ST.16 Table (Kind Codes)

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	
C1, C2, C3	Reexamination Certificate	Previously used codes B1 and B2 are now used for granted Patents	
E	Reissue Patent	No change	
Н	Statutory Invention Registration (SIR)	No change	
P1	Plant Patent Application Publication	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 Added As Result of America Invents Act of 2011			
WIPO ST.16 Kind Codes	Kind of document	Comments	
F1, F2, F3	Supplemental Examination Certificate	Procedure in effect September 16, 2012	
J1, J2, J3	Post Grant Review Certificate	Procedure in effect September 16, 2012	
K1, K2, K3	Inter Partes Review Certificate	Procedure in effect September 16, 2012	
01, 02, 03	Derivation Certificate	Procedure in effect March 16, 2013	