

USPTO Proposes Amendment for Replacement of an Application and Patent Files

The USPTO is proposing to amend the rules of practice to provide for the replacement (reconstruction) of application and patent files that cannot be located after a reasonable search. No indication is given as to what constitutes a "reasonable search."

Under the proposed rule, once the USPTO determines that a file is lost, the applicant or patentee will be notified and given a time period to either provide a copy of the file (correspondence between USPTO and applicant only) or make its file available to the USPTO for copying. If the applicant or patentee does not have a complete copy of the file, it must submit a copy of its record (if any) together with a statement that it does not possess a complete copy of the record. In the case of a pending application, the failure to comply with the requirement will result in abandonment of the application. The proposed rule does not provide for a penalty for non-compliance in the case of an issued patent.

Comments on the proposed rule must be submitted by August 9, 2000. The USPTO prefers that comments be submitted via the internet at reconstruct.comments@uspto.gov