

Proposed Amended 37 CFR §1.515: Determination of the Request for Ex Parte Reexamination

- (a) Within three months following the filing date of a request for an *ex parte* reexamination, an examiner will consider the request [for an ex parte reexamination](#) and determine whether or not a substantial new question of patentability affecting any claim of the patent is raised by the request and the prior art cited therein, with or without consideration of other patents or printed publications. [A statement and any accompanying information submitted pursuant to § 1.501\(a\)\(2\) will not be considered by the examiner in the examiner's determination on the request.](#) The examiner's determination will be based on the claims in effect at the time of the determination, will become a part of the official file of the patent, and will be mailed to the patent owner at the address as provided for in § 1.33(c) and to the person requesting reexamination.
- (b) Where no substantial new question of patentability has been found, a refund of a portion of the fee for requesting *ex parte* reexamination will be made to the requester in accordance with § 1.26(c).
- (c) The requester may seek review by a petition to the Director under § 1.181 within one month of the mailing date of the examiner's determination refusing *ex parte* reexamination. Any such petition must comply with § 1.181(b). If no petition is timely filed or if the decision on petition affirms that no substantial new question of patentability has been raised, the determination shall be final and nonappealable.