

USPTO Post-Issue Practice

Reissue, Reexamination, Certificates of Correction, Disclaimers, Supplemental Examination, and Maintenance Fees

Instructional Note: This document is for educational training only. USPTO rules, forms, and fees can change. Students should verify current requirements through the USPTO, the MPEP, the CFR, and applicable statutes before filing or advising on a matter.

Primary source note: The MPEP current edition identified by the USPTO is Ninth Edition, Revision 01.2024. Fee information is from the USPTO fee schedule effective January 19, 2025 and last revised June 1, 2026.

Module Learning Objectives

- Identify the correct USPTO procedure for correcting, narrowing, challenging, or maintaining an issued patent.
- Distinguish certificates of correction, statutory disclaimers, reissue applications, ex parte reexamination, supplemental examination, and maintenance fee practice.
- Explain when a patent owner may broaden claims through reissue and the two-year broadening deadline.
- Apply the basic rules for ex parte reexamination, including who may file, permitted prior art, and limits on claim amendments.
- Calculate maintenance fee windows and understand the consequences of late or missed payment.
- Answer exam-style questions using practical USPTO post-issue scenarios.

Part 1: Big Picture - What Happens After a Patent Issues?

Once a patent issues, the patent owner may still need to correct errors, defend patentability, narrow or broaden claims, pay maintenance fees, or respond to challenges. USPTO post-issue practice provides several tools, each with different timing rules, filing requirements, and legal consequences.

Procedure	Who Usually Uses It	Main Purpose	Key Limit
Certificate of Correction	Patent owner or USPTO	Correct minor or clerical errors	Cannot add new matter or require reexamination
Statutory Disclaimer	Patent owner	Disclaim one or more complete claims	Cannot amend or add claims
Reissue	Patent owner	Correct an issued patent that is partly or wholly inoperative or invalid	No new matter; broadening must be timely
Ex Parte Reexamination	Any person, including patent owner	Reexamine claims based on patents or printed publications	No broadening; requester participation is limited
Supplemental Examination	Patent owner only	Ask USPTO to consider, reconsider, or correct information relevant to the patent	Must be filed by owner of entire right, title, and interest
Maintenance Fees	Patent owner	Keep certain utility and reissue patents in force	Failure to pay can cause expiration

Part 2: Certificates of Correction

A. Office Mistake - 35 U.S.C. § 254

A certificate of correction may be used when the mistake was caused by the USPTO and is supported by the Office record. The Director may issue the certificate at the request of the patentee or assignee, on the Office's own initiative, or based on information supplied by a third party.

Scenario	Proper Tool?	Explanation
USPTO printed the wrong claim number in the issued patent	Certificate of correction	Office printing mistake
USPTO omitted a line from the specification that appeared in the allowed application	Certificate of correction	Office error shown in the record
Patent owner wants to add a new limitation to avoid prior art	Not certificate of correction	Likely requires reissue or reexamination

B. Applicant Mistake - 35 U.S.C. § 255

A certificate of correction may also correct an applicant's clerical, typographical, or minor mistake made in good faith, as long as the correction does not introduce new matter and does not require reexamination.

Key Exam Point

- A certificate of correction is for minor corrections, not substantive claim changes.
- If the correction affects claim scope or requires the USPTO to reconsider patentability, the better answer is usually reissue, not certificate of correction.

Part 3: Disclaimers

A statutory disclaimer allows the patent owner to disclaim one or more complete claims of a patent. It is often used when the patent owner believes a claim is invalid, too broad, or not worth defending. A disclaimer is not a tool for adding, rewriting, or amending claims.

Type of Disclaimer	Purpose	Example
Statutory disclaimer	Gives up an entire claim	Owner disclaims claim 5 after discovering invalidating prior art
Terminal disclaimer	Gives up part of the patent term	Used to overcome certain double patenting issues

Example

A patent has claims 1-10. Claim 7 is likely invalid over a prior publication. The patent owner may file a statutory disclaimer of claim 7. The owner cannot use a disclaimer to rewrite claim 7 into a narrower version.

Part 4: Reissue Applications

A. Purpose of Reissue

A reissue application is used to correct an error in an issued patent when the patent is considered wholly or partly inoperative or invalid because of a defective specification, defective drawing, or because the patentee claimed more or less than the patentee had a right to claim. There must be at least one qualifying error; if there is no error, reissue is not proper.

Common Reissue Ground	Example
Claims too narrow	Patent owner accidentally omitted a broader supported claim
Claims too broad	Claim reads on prior art and needs narrowing
Defective specification	Disclosure contains a substantive error
Priority claim error	Foreign priority was omitted or incorrectly stated
Inventorship issue	Inventorship correction may require reissue in some cases

B. Reissue Content Requirements

A reissue application must contain the entire specification, including claims and drawings. No new matter may be introduced. A broadening reissue may not be granted unless it is applied for within two years from the grant of the original patent.

Rule	Explanation
Entire patent must be submitted	The reissue application is not merely a small correction sheet.
No new matter	The owner cannot add disclosure that was not originally present.
Same invention requirement	Claims must be for the invention disclosed in the original patent.
Broadening deadline	Broadening reissue must be filed within two years of the original patent grant.

C. Broadening vs. Narrowing Reissue

A claim is broadened when it removes or relaxes a limitation so that it covers something that would not have infringed the original patent claim.

Claim Change	Broadening?	Explanation
"A chair with four legs" → "A chair with legs"	Yes	Removes the "four" limitation
"A metal bracket" → "A steel bracket"	No	Steel is narrower than metal
"A fastener" → "A screw fastener"	No	Adds a limitation
"A plastic container with a lid" → "A container with a lid"	Yes	Removes the plastic limitation

D. Recapture Doctrine

The recapture doctrine prevents a reissue applicant from reclaiming subject matter surrendered during prosecution of the original application. In other words, the patent owner cannot use reissue to take back claim scope that was given up to obtain allowance.

Example

During original prosecution, the applicant amended a claim from "a container" to "a container made of aluminum" to overcome prior art. After the patent issues, the owner files reissue claims covering "a container made of metal." That may be improper recapture if it attempts to regain surrendered non-aluminum metal containers.

Part 5: Ex Parte Reexamination

A. Who May Request Ex Parte Reexamination?

Any person may request ex parte reexamination during the period of enforceability of the patent, including the patent owner, a competitor, or another third party, unless barred by statutory estoppel.

B. Basis for Reexamination

Ex parte reexamination is based on prior art patents or printed publications. The request must raise a substantial new question of patentability affecting at least one claim.

Requirement	Explanation
Prior art type	Patents or printed publications
Standard	Substantial new question of patentability
Claim impact	Must affect at least one patent claim
Not a proper basis	Prior public use, on-sale activity, inequitable conduct, or inventorship disputes

C. Scope of Reexamination

Once ordered, ex parte reexamination provides a complete reexamination of the claims based on patents and printed publications. Double patenting may also be considered. Section 112 issues are generally addressed only for new claims or amended subject matter.

D. Claim Amendments in Reexamination

The patent owner may amend claims or add claims, but the amended or new claims may not enlarge the scope of the patent claims and may not introduce new matter.

Amendment	Allowed?	Explanation
Cancel claim 3	Yes	Narrowing action
Add narrower dependent claim	Usually yes	Must be supported and must not broaden
Add broader independent claim	No	Reexamination cannot broaden
Add new matter to the specification	No	New matter is prohibited
Amend expired patent claims	Generally no	Amendments after expiration are limited

E. Third-Party Requester Participation

In ex parte reexamination, the third-party requester's role is limited. If the patent owner files a statement, the third-party requester may file a reply within two months from service of that statement. If the patent owner does not file a statement, no requester reply or further submission is considered.

Part 6: Supplemental Examination

Supplemental examination allows a patent owner to ask the USPTO to consider, reconsider, or correct information believed to be relevant to the patent. It is governed by MPEP Chapter 2800 and related statutory and regulatory provisions.

Feature	Rule
Who may file	Owner of the entire right, title, and interest
When	During the patent's period of enforceability
Purpose	Consider, reconsider, or correct information relevant to patentability
Interview practice	Interviews are prohibited in supplemental examination

- A supplemental examination request must identify the owner of the entire right, title, and interest in the patent.
- Supplemental examination is not a third-party challenge mechanism; it is filed by the patent owner.

Part 7: Maintenance Fees

Maintenance fees are required for utility patents based on applications filed on or after December 12, 1980, but not for plant patents or design patents. Maintenance fees are also generally required for reissue patents unless the patent being reissued did not require maintenance fees.

A. Maintenance Fee Timing

Fee Stage	Due Date	Window Without Surcharge	Grace Period With Surcharge
First maintenance fee	3.5 years after grant	3 to 3.5 years after grant	3.5 to 4 years after grant
Second maintenance fee	7.5 years after grant	7 to 7.5 years after grant	7.5 to 8 years after grant
Third maintenance fee	11.5 years after grant	11 to 11.5 years after grant	11.5 to 12 years after grant

The USPTO describes the window period as the six months before each due date and the grace period as the six months immediately following each due date.

B. Current USPTO Maintenance Fees

As of the USPTO fee schedule effective January 19, 2025 and last revised June 1, 2026, the listed maintenance fees are:

Maintenance Fee	Large Entity	Small Entity	Micro Entity
3.5-year fee	\$2,150	\$860	\$430
7.5-year fee	\$4,040	\$1,616	\$808
11.5-year fee	\$8,280	\$3,312	\$1,656
Late surcharge within six months	\$540	\$216	\$108

Fee amounts change. Always verify the USPTO fee schedule before filing.

C. Late Maintenance Fee After Expiration

If the maintenance fee is not paid by the end of the grace period, the patent expires. The USPTO may accept a delayed payment if the delay was unintentional and the petition includes the required maintenance fee, petition fee, and statement that the delay was unintentional.

Part 8: Comparison Table - Choosing the Correct Tool

Problem	Best Procedure	Why
Typographical mistake in patent number	Certificate of correction	Minor correction
USPTO printed wrong inventor name from Office record	Certificate of correction	Office mistake
Owner wants to cancel a claim	Statutory disclaimer	Disclaims complete claim
Claims are too narrow and owner wants broader claims	Reissue	Broadening possible only if timely
Claims are invalid over prior art patents	Reissue or reexamination	Depends on owner's goal and needed relief
Third party has printed publication prior art	Ex parte reexamination	Proper basis is patents or printed publications
Owner wants USPTO to consider withheld or newly discovered information	Supplemental examination	Owner-only procedure
Utility patent at 7.5 years after grant	Maintenance fee	Required to keep patent in force

Part 9: Practical Examples

Example 1 - Certificate of Correction

A patent issues with “claim 11 depends from claim 1,” but the allowed application clearly stated “claim 11 depends from claim 10.” The error is clerical and supported by the record. A certificate of correction is likely appropriate.

Example 2 - Reissue

A patent owner discovers that the issued independent claim accidentally omitted a broader version fully supported by the original specification. If the owner wants broader claims, the owner must pursue broadening reissue within two years from the original patent grant.

Example 3 - Ex Parte Reexamination

A competitor discovers an earlier printed journal article that appears to anticipate claim 1 of an issued patent. The competitor may request ex parte reexamination based on the publication, but after the limited requester reply opportunity, the proceeding primarily continues between the patent owner and the USPTO.

Example 4 - Maintenance Fee

A utility patent issued on March 10, 2023. The first maintenance fee is due at 3.5 years after grant, meaning September 10, 2026. It may be paid without surcharge during the six months before that date, and with surcharge during the six months after that date.

Exam-Style Questions with Answers

Question 1: A patent issues with a misspelled inventor name because the USPTO made a printing error, and the correct spelling is clearly shown in the application record. What is the best procedure?

- A. Broadening reissue
- B. Certificate of correction for Office mistake
- C. Ex parte reexamination
- D. Supplemental examination

Answer: B. Certificate of correction for Office mistake.

Explanation: A certificate of correction may be used for a USPTO mistake clearly disclosed in Office records.

Question 2: A patent owner wants to broaden the claims of an issued patent. How long does the owner generally have to file a broadening reissue application?

- A. 6 months from grant
- B. 1 year from grant
- C. 2 years from grant
- D. Any time during enforceability

Answer: C. 2 years from grant.

Explanation: A reissue patent enlarging claim scope must be applied for within two years from the grant of the original patent.

Question 3: Which prior art may form the basis of an ex parte reexamination request?

- A. Oral testimony only
- B. Prior public use only
- C. Prior patents or printed publications
- D. Inventorship dispute

Answer: C. Prior patents or printed publications.

Explanation: Ex parte reexamination is based on prior art patents or printed publications.

Question 4: A patent owner files an ex parte reexamination and proposes a new claim broader than every original patent claim. What result?

- A. Allowed because patent owner filed the request
- B. Allowed only if filed within two years
- C. Not allowed because reexamination cannot enlarge claim scope
- D. Allowed if the requester agrees

Answer: C. Not allowed because reexamination cannot enlarge claim scope.

Explanation: Claims in ex parte reexamination may not enlarge the scope of the patent claims.

Question 5: Which patent types are generally not subject to maintenance fees?

- A. Utility and reissue patents
- B. Design and plant patents
- C. Utility and plant patents
- D. Reissue and design patents only

Answer: B. Design and plant patents.

Explanation: Maintenance fees are required for certain utility patents but not for plant patents or design patents.

Question 6: A patent owner wants to add disclosure that was not present in the original patent application. Which statement is correct?

- A. New matter may be added in reissue
- B. New matter may be added in reexamination
- C. New matter may be added by certificate of correction
- D. New matter may not be added through these procedures

Answer: D. New matter may not be added through these procedures.

Explanation: A reissue application may not introduce new matter, and reexamination amendments may not introduce new matter.

Question 7: During original prosecution, the applicant narrowed a claim to overcome prior art. After issuance, the patent owner files a reissue application seeking to regain the surrendered subject matter. What doctrine is most relevant?

- A. Restriction practice
- B. Recapture doctrine
- C. Terminal disclaimer doctrine
- D. Election of species

Answer: B. Recapture doctrine.

Explanation: The recapture doctrine prevents a reissue applicant from reclaiming subject matter surrendered during prosecution.

Question 8: A third-party requester files an ex parte reexamination request. The patent owner does not file a patent owner statement. May the requester file a reply?

- A. Yes, always
- B. Yes, within one month
- C. No, because no patent owner statement was filed
- D. Yes, but only after final rejection

Answer: C. No, because no patent owner statement was filed.

Explanation: If the patent owner does not file a statement, no reply or other submission from the ex parte requester will be considered.

Question 9: Who may file a request for supplemental examination?

- A. Any person
- B. Any competitor
- C. Only the owner of the entire right, title, and interest in the patent
- D. Only the original inventor, even after assignment

Answer: C. Only the owner of the entire right, title, and interest in the patent.

Explanation: A supplemental examination request must be filed by the owner of the entire right, title, and interest.

Question 10: A utility patent owner misses the 7.5-year maintenance fee and also misses the six-month grace period. What may the owner generally file to seek acceptance of late payment?

- A. Certificate of correction
- B. Petition to accept unintentionally delayed maintenance fee payment

- C. Statutory disclaimer
- D. Broadening reissue

Answer: B. Petition to accept unintentionally delayed maintenance fee payment.

Explanation: The petition must include the required maintenance fee, petition fee, and statement that the delay was unintentional.

Question 11: A patent owner discovers that claim 4 is invalid but wants to preserve the remaining claims. What is the most direct USPTO filing?

- A. Statutory disclaimer of claim 4
- B. Supplemental examination
- C. Broadening reissue
- D. Request for continued examination

Answer: A. Statutory disclaimer of claim 4.

Explanation: A patent owner may disclaim a complete claim, but disclaimer is not a vehicle for amending or adding claims.

Question 12: Which statement best describes supplemental examination?

- A. It is filed by any person to challenge a patent.
- B. It is filed by the patent owner to ask USPTO to consider, reconsider, or correct information relevant to the patent.
- C. It is used only to pay late maintenance fees.
- D. It automatically broadens claims.

Answer: B. It is filed by the patent owner to ask USPTO to consider, reconsider, or correct information relevant to the patent.

Explanation: Supplemental examination allows a patent owner to request that the USPTO consider, reconsider, or correct information believed to be relevant to the patent.

Quick Answer Key

Question	Correct Answer
1	B
2	C
3	C
4	C
5	B
6	D
7	B
8	C
9	C
10	B
11	A
12	B

Authority References and Source Links

The following official USPTO resources were used to prepare this training outline. Verify current rules and fees before filing.

- [USPTO MPEP main page - current edition and formats](#)
- [MPEP § 1480 - Certificates of Correction, Office Mistake](#)
- [MPEP § 1481 - Certificates of Correction, Applicant's Mistake](#)
- [MPEP § 1490 - Disclaimers](#)
- [MPEP § 1402 - Grounds for Filing Reissue](#)
- [MPEP § 1410 - Content of Reissue Application](#)
- [MPEP § 1412 - Content of Claims in Reissue](#)
- [MPEP § 2212 - Persons Who May File Ex Parte Reexamination](#)
- [MPEP § 2251 - Substantial New Question of Patentability](#)
- [MPEP § 2258 - Scope of Ex Parte Reexamination](#)
- [MPEP § 2803 - Persons Who May File Supplemental Examination](#)
- [MPEP § 2504 - Patents Subject to Maintenance Fees](#)
- [MPEP § 2506 - Times for Submitting Maintenance Fee Payments](#)
- [MPEP § 2590 - Acceptance of Delayed Payment of Maintenance Fee](#)
- [USPTO Fee Schedule - current maintenance and post-issuance fees](#)