

UNITED STATES
PATENT AND TRADEMARK OFFICE



After-final practice

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After-final practice

1. Applicant's reply options after a final action (37 CFR 1.114 (RCE), 1.116 (amendment and affidavit), and 41.31 (appeal))
2. After-final pilot programs: After-final Consideration Pilot 2.0 and Pre-Appeal Brief Conference Pilot Program
3. Quick Path Information Disclosure Statement (QPIDS)



After-Final Practice

- 1. Applicant's reply options after a final action (37 CFR 1.114 (RCE), 37 CFR 1.116 (amendment and affidavit), and 37 CFR 41.31 (appeal))**

Applicant's reply options after final are limited

- To avoid abandonment, applicant's reply options are:
 - Filing an after-final reply (37 CFR 1.116);
 - Appealing any rejections (37 CFR 41.31); or
 - Filing an RCE (37 CFR 1.114).

MPEP 706.07 and 714.13(II), and 37 CFR 1.113



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After final rejection, applicant has no right to unrestricted further prosecution

- 37 CFR 1.116 applies to replies filed after final rejection but before or on the same date of filing an appeal.
- Once a proper final rejection has been entered in an application, applicant or patent owner no longer has a right to unrestricted further prosecution.
- Ordinarily, amendments filed after the final action are not entered unless approved by the examiner.

See MPEP 714.12

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"After Final Rejection Practice"