

publish notice of the filing of the application in the Official Gazette. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[65 FR 54662, Sept. 8, 2000]

§ 1.48 Correction of inventorship in a patent application, other than a re-issue application, pursuant to 35 U.S.C. 116.

(a) *Nonprovisional application after oath/declaration filed.* If the inventive entity is set forth in error in an executed § 1.63 oath or declaration in a nonprovisional application, and such error arose without any deceptive intention on the part of the person named as an inventor in error or on the part of the person who through error was not named as an inventor, the inventorship of the nonprovisional application may be amended to name only the actual inventor or inventors. If the nonprovisional application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

(b) *Nonprovisional application—fewer inventors due to amendment or cancellation of claims.* If the correct inventors are named in a nonprovisional application, and the prosecution of the nonprovisional application results in the amendment or cancellation of claims

so that fewer than all of the currently named inventors are the actual inventors of the invention being claimed in the nonprovisional application, an amendment must be filed requesting deletion of the name or names of the person or persons who are not inventors of the invention being claimed. If the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:

(1) A request, signed by a party set forth in § 1.33(b), to correct the inventorship that identifies the named inventor or inventors being deleted and acknowledges that the inventor's invention is no longer being claimed in the nonprovisional application; and

(2) The processing fee set forth in § 1.17(i).

(c) *Nonprovisional application—inventors added for claims to previously unclaimed subject matter.* If a nonprovisional application discloses unclaimed subject matter by an inventor or inventors not named in the application, the application may be amended to add claims to the subject matter and name the correct inventors for the application. If the application is involved in an interference, the amendment must comply with the requirements of this section and must be accompanied by a motion under § 1.634. Amendment of the inventorship requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor that the addition is necessitated by amendment of the claims and that the inventorship error occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43, or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

(d) *Provisional application—adding omitted inventors.* If the name or names

of an inventor or inventors were omitted in a provisional application through error without any deceptive intention on the part of the omitted inventor or inventors, the provisional application may be amended to add the name or names of the omitted inventor or inventors. Amendment of the inventorship requires:

(1) A request, signed by a party set forth in §1.33(b), to correct the inventorship that identifies the inventor or inventors being added and states that the inventorship error occurred without deceptive intention on the part of the omitted inventor or inventors; and

(2) The processing fee set forth in §1.17(q).

(e) *Provisional application—deleting the name or names of the inventor or inventors.* If a person or persons were named as an inventor or inventors in a provisional application through error without any deceptive intention on the part of such person or persons, an amendment may be filed in the provisional application deleting the name or names of the person or persons who were erroneously named. Amendment of the inventorship requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement by the person or persons whose name or names are being deleted that the inventorship error occurred without deceptive intention on the part of such person or persons;

(3) The processing fee set forth in §1.17(q); and

(4) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see §3.73(b) of this chapter).

(f)(1) *Nonprovisional application—filing executed oath/declaration corrects inventorship.* If the correct inventor or inventors are not named on filing a nonprovisional application under §1.53(b) without an executed oath or declaration under §1.63 by any of the inventors, the first submission of an executed oath or declaration under §1.63 by any of the inventors during the pendency of the application will act to correct the earlier identification of inventorship. See §§1.41(a)(4) and 1.497(d) and (f) for submission of an exe-

cuted oath or declaration to enter the national stage under 35 U.S.C. 371 naming an inventive entity different from the inventive entity set forth in the international stage.

(2) *Provisional application—filing cover sheet corrects inventorship.* If the correct inventor or inventors are not named on filing a provisional application without a cover sheet under §1.51(c)(1), the later submission of a cover sheet under §1.51(c)(1) during the pendency of the application will act to correct the earlier identification of inventorship.

(g) *Additional information may be required.* The Office may require such other information as may be deemed appropriate under the particular circumstances surrounding the correction of inventorship.

(h) *Reissue applications not covered.* The provisions of this section do not apply to reissue applications. See §§1.171 and 1.175 for correction of inventorship in a patent via a reissue application.

(i) *Correction of inventorship in patent or interference.* See §1.324 for correction of inventorship in a patent, and §1.634 for correction of inventorship in an interference.

[65 FR 54663, Sept. 8, 2000, as amended at 67 FR 523, Jan. 4, 2002]

THE APPLICATION

§ 1.51 General requisites of an application.

(a) Applications for patents must be made to the Director of the United States Patent and Trademark Office.

(b) A complete application filed under §1.53(b) or §1.53(d) comprises:

(1) A specification as prescribed by 35 U.S.C. 112, including a claim or claims, see §§1.71 to 1.77;

(2) An oath or declaration, see §§1.63 and 1.68;

(3) Drawings, when necessary, see §§1.81 to 1.85; and

(4) The prescribed filing fee, see §1.16.

(c) A complete provisional application filed under §1.53(c) comprises:

(1) A cover sheet identifying:

(i) The application as a provisional application,

(ii) The name or names of the inventor or inventors, (see §1.41(a)(2)),