

**§§ 1.60–1.62**

**37 CFR Ch. I (7–1–03 Edition)**

(b) An applicant may request that the Office expunge and return information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge and return information from an application must include the fee set forth in §1.17(h) and establish to the satisfaction of the Director that the return of the information is appropriate.

(c) Upon request by an applicant and payment of the fee specified in §1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §1.53 (e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[62 FR 53188, Oct. 10, 1997, as amended at 65 FR 54667, Sept. 8, 2000]

EFFECTIVE DATE NOTE: At 68 FR 38628, June 30, 2003, §1.59 was revised, effective July 30, 2003. For the convenience of the user, the revised text is set forth as follows:

**§ 1.59 Expungement of information or copy of papers in application file.**

(a)(1) Information in an application will not be expunged, except as provided in paragraph (b) of this section.

(2) Information forming part of the original disclosure (*i.e.*, written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§1.63 and 1.175) will not be expunged from the application file.

(b) An applicant may request that the Office expunge information, other than what is excluded by paragraph (a)(2) of this section, by filing a petition under this paragraph. Any petition to expunge information from an application must include the fee set forth in §1.17(h) and establish to the satisfaction of the Director that the expungement of the information is appropriate in which case a notice granting the petition for expungement will be provided.

(c) Upon request by an applicant and payment of the fee specified in §1.19(b), the Office will furnish copies of an application, unless the application has been disposed of (see §§1.53(e), (f) and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

**§§ 1.60–1.62 [Reserved]**

**OATH OR DECLARATION**

**§ 1.63 Oath or declaration.**

(a) An oath or declaration filed under §1.51(b)(2) as a part of a nonprovisional application must:

(1) Be executed, *i.e.*, signed, in accordance with either §1.66 or §1.68. There is no minimum age for a person to be qualified to sign, but the person must be competent to sign, *i.e.*, understand the document that the person is signing;

(2) Identify each inventor by full name, including the family name, and at least one given name without abbreviation together with any other given name or initial;

(3) Identify the country of citizenship of each inventor; and

(4) State that the person making the oath or declaration believes the named inventor or inventors to be the original and first inventor or inventors of the subject matter which is claimed and for which a patent is sought.

(b) In addition to meeting the requirements of paragraph (a) of this section, the oath or declaration must also:

(1) Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in §1.56.

(c) Unless such information is supplied on an application data sheet in accordance with §1.76, the oath or declaration must also identify:

(1) The mailing address, and the residence if an inventor lives at a location which is different from where the inventor customarily receives mail, of each inventor; and

(2) Any foreign application for patent (or inventor's certificate) for which a claim for priority is made pursuant to § 1.55, and any foreign application having a filing date before that of the application on which priority is claimed, by specifying the application number, country, day, month, and year of its filing.

(d)(1) A newly executed oath or declaration is not required under § 1.51(b)(2) and § 1.53(f) in a continuation or divisional application, provided that:

(i) The prior nonprovisional application contained an oath or declaration as prescribed by paragraphs (a) through (c) of this section;

(ii) The continuation or divisional application was filed by all or by fewer than all of the inventors named in the prior application;

(iii) The specification and drawings filed in the continuation or divisional application contain no matter that would have been new matter in the prior application; and

(iv) A copy of the executed oath or declaration filed in the prior application, showing the signature or an indication thereon that it was signed, is submitted for the continuation or divisional application.

(2) The copy of the executed oath or declaration submitted under this paragraph for a continuation or divisional application must be accompanied by a statement requesting the deletion of the name or names of the person or persons who are not inventors in the continuation or divisional application.

(3) Where the executed oath or declaration of which a copy is submitted for a continuation or divisional application was originally filed in a prior application accorded status under § 1.47, the copy of the executed oath or declaration for such prior application must be accompanied by:

(i) A copy of the decision granting a petition to accord § 1.47 status to the prior application, unless all inventors or legal representatives have filed an oath or declaration to join in an application accorded status under § 1.47 of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c); and

(ii) If one or more inventor(s) or legal representative(s) who refused to join in the prior application or could not be found or reached has subsequently joined in the prior application or another application of which the continuation or divisional application claims a benefit under 35 U.S.C. 120, 121, or 365(c), a copy of the subsequently executed oath(s) or declaration(s) filed by the inventor or legal representative to join in the application.

(4) Where the power of attorney (or authorization of agent) or correspondence address was changed during the prosecution of the prior application, the change in power of attorney (or authorization of agent) or correspondence address must be identified in the continuation or divisional application. Otherwise, the Office may not recognize in the continuation or divisional application the change of power of attorney (or authorization of agent) or correspondence address during the prosecution of the prior application.

(5) A newly executed oath or declaration must be filed in a continuation or divisional application naming an inventor not named in the prior application.

(e) A newly executed oath or declaration must be filed in any continuation-in-part application, which application may name all, more, or fewer than all of the inventors named in the prior application.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2711, Jan. 20, 1983; 48 FR 4285, Jan. 31, 1983, as amended at 57 FR 2034, Jan. 17, 1992; 60 FR 20225, Apr. 25, 1995; 62 FR 53188, Oct. 10, 1997; 65 FR 54667, Sept. 8, 2000]

#### **§ 1.64 Person making oath or declaration.**

(a) The oath or declaration (§ 1.63), including any supplemental oath or declaration (§ 1.67), must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43, 1.47, or § 1.67.

(b) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor is required to state.