

## § 1.499

oath or declaration, applicant must submit:

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

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

(3) 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); and

(4) Any new oath or declaration required by paragraph (f) of this section.

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

(f) A new oath or declaration in accordance with this section must be filed to satisfy 35 U.S.C. 371(c)(4) if the declaration was filed under PCT Rule 4.17(iv), and:

(1) There was a change in the international filing date pursuant to PCT Rule 20.5(c) after the declaration was executed; or

(2) A change in the inventive entity was effected under PCT Rule 92*bis* after the declaration was executed and no declaration which sets forth and is executed by the inventive entity as so changed has been filed in the application.

(g) If a priority claim has been corrected or added pursuant to PCT Rule 26*bis* during the international stage after the declaration of inventorship was executed in the international application under PCT Rule 4.17(iv), applicant will be required to submit either a new oath or declaration or an application data sheet as set forth in § 1.76 correctly identifying the application upon which priority is claimed.

[61 FR 42807, Aug. 19, 1996, as amended at 65 FR 54677, Sept. 8, 2000; 66 FR 16006, Mar. 22, 2001; 66 FR 28054, May 22, 2001; 67 FR 524, Jan. 4, 2002; 67 FR 6075, Feb. 8, 2002; 72 FR 51564, Sept. 10, 2007; 72 FR 57863, Oct. 11, 2007]

### § 1.499 Unity of invention during the national stage.

If the examiner finds that a national stage application lacks unity of inven-

## 37 CFR Ch. I (7-1-10 Edition)

tion under § 1.475, the examiner may in an Office action require the applicant in the response to that action to elect the invention to which the claims shall be restricted. Such requirement may be made before any action on the merits but may be made at any time before the final action at the discretion of the examiner. Review of any such requirement is provided under §§ 1.143 and 1.144.

[58 FR 4347, Jan. 14, 1993]

### Subpart D—*Ex Parte* Reexamination of Patents

SOURCE: 46 FR 29185, May 29, 1981, unless otherwise noted.

#### CITATION OF PRIOR ART

### § 1.501 Citation of prior art in patent files.

(a) At any time during the period of enforceability of a patent, any person may cite, to the Office in writing, prior art consisting of patents or printed publications which that person states to be pertinent and applicable to the patent and believes to have a bearing on the patentability of any claim of the patent. If the citation is made by the patent owner, the explanation of pertinency and applicability may include an explanation of how the claims differ from the prior art. Such citations shall be entered in the patent file except as set forth in §§ 1.502 and 1.902.

(b) If the person making the citation wishes his or her identity to be excluded from the patent file and kept confidential, the citation papers must be submitted without any identification of the person making the submission.

(c) Citation of patents or printed publications by the public in patent files should either:

(1) Reflect that a copy of the same has been mailed to the patent owner at the address as provided for in § 1.33(c); or in the event service is not possible

(2) Be filed with the Office in duplicate.

[46 FR 29185, May 29, 1981, as amended at 65 FR 76774, Dec. 7, 2000]