§ 1.41 Applicant for patent.

(a) A patent is applied for in the name or names of the actual inventor or inventors.

(1) The inventorship of a nonprovisional application is that inventorship set forth in the oath or declaration as prescribed by §1.63 is not filed during the pendency of a nonprovisional application, the inventorship is that inventorship set forth in the application papers filed pursuant to §1.53(b), unless applicant files a paper, including the processing fee set forth in §1.17(p), supplying or changing the name or names of the inventor or inventors.

(2) The inventorship of a provisional application is that inventorship set forth in the cover sheet as prescribed by §1.51(c)(1). If a cover sheet as prescribed by §1.51(c)(1) is not filed during the pendency of a provisional application, the inventorship is that inventorship set forth in the application papers filed pursuant to §1.53(c), unless applicant files a paper including the processing fee set forth in §1.17(q), supplying or changing the name or names of the inventor or inventors.

(3) In a nonprovisional application filed without an oath or declaration as prescribed by §1.63 or a provisional application filed without a cover sheet as prescribed by §1.51(c)(1), the name, residence, and citizenship of each person believed to be an actual inventor should be provided when the application papers pursuant to §1.53(b) or §1.53(c) are filed.

(4) The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92bis. See §1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) §1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

(b) Unless the contrary is indicated the word “applicant” when used in these sections refers to the inventor or joint inventors who are applying for a patent, or to the person mentioned in §§1.42, 1.43, or 1.47 who is applying for a patent in place of the inventor.
§ 1.42 When the inventor is dead.

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.


§ 1.43 When the inventor is insane or legally incapacitated.

In case an inventor is insane or otherwise legally incapacitated, the legal representative (guardian, conservator, etc.) of such inventor may make the necessary oath or declaration, and apply for and obtain the patent.


§ 1.44 [Reserved]

§ 1.45 Joint inventors.

(a) Joint inventors must apply for a patent jointly and each must make the required oath or declaration: neither of them alone, nor less than the entire number, can apply for a patent for an invention invented by them jointly, except as provided in §1.47.

(b) Inventors may apply for a patent jointly even though

(1) They did not physically work together or at the same time,
(2) Each inventor did not make the same type or amount of contribution, or
(3) Each inventor did not make a contribution to the subject matter of every claim of the application.

(c) If multiple inventors are named in a nonprovisional application, each named inventor must have made a contribution, individually or jointly, to the subject matter of at least one claim of the application and the application will be considered to be a joint application under 35 U.S.C. 116. If multiple inventors are named in a provisional application, each named inventor must have made a contribution, individually or jointly, to the subject matter disclosed in the provisional application and the provisional application will be considered to be a joint application under 35 U.S.C. 116.


§ 1.46 Assigned inventions and patents.

In case the whole or a part interest in the invention or in the patent to be issued is assigned, the application must still be made or authorized to be made, and an oath or declaration signed, by the inventor or one of the persons mentioned in §1.42, 1.43, or 1.47. However, the patent may be issued to the assignee or jointly to the inventor and the assignee as provided in §3.81.


§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(g), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the