§ 1.496 Examination of international applications in the national stage.

(a) International applications which have complied with the requirements of 35 U.S.C. 371(c) will be taken up for action based on the date on which such requirements were met. However, unless an express request for early processing has been filed under 35 U.S.C. 371(f), no action may be taken prior to one month after entry into the national stage.

(b) National stage applications having paid therein the search fee as set forth in §1.492(b)(1) and the examination fee as set forth in §1.492(c)(1) may be amended subsequent to the date of entry into the national stage only to the extent necessary to eliminate objections as to form or to cancel rejected claims. Such national stage applications will be advanced out of turn for examination.

§ 1.497 Oath or declaration under 35 U.S.C. 371(c)(4).

(a) When an applicant of an international application desires to enter the national stage under 35 U.S.C. 371 pursuant to §1.495, and a declaration in compliance with this section has not been previously submitted in the international application under PCT Rule 4.17(iv) within the time limits provided for in PCT Rule 26ter.1, he or she must file an oath or declaration that:

1. Is executed in accordance with either §§1.66 or 1.68;
2. Identifies the application to which it is directed;
3. Identifies each inventor and the country of citizenship of each inventor;
4. States 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)(1) The oath or declaration must be made by all of the actual inventors except as provided for in §§1.42, 1.43 or 1.47.

(2) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§1.42, 1.43, or §1.47), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor would have been required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence and mailing address of the legal representative.

(c) Subject to paragraph (f) of this section, if the oath or declaration meets the requirements of paragraphs (a) and (b) of this section, the oath or declaration will be accepted as complying with 35 U.S.C. 371(c)(4) and §1.495(c). However, if the oath or declaration does not also meet the requirements of §1.63, a supplemental oath or declaration in compliance with §1.63 or an application data sheet will be required in accordance with §1.67.

(d) If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth 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 oath or declaration which was filed in the application under PCT Rule 4.17(iv) or this section and the inventive entity thus changed is different from the inventive entity identified in any such