of attorney to the patent practitioners associated with the Customer Number in an application that has an Office action to which a reply is due, but insufficient time remains for the applicant to file a reply. See §41.5 of this title for withdrawal during proceedings before the Board of Patent Appeals and Interferences.


WHO MAY APPLY FOR A PATENT

§ 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, except as provided for in §§1.53(d)(4) and 1.63(d). If an 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(i), 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(b), 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.

(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.

(c) Any person authorized by the applicant may physically or electronically deliver an application for patent to the Office on behalf of the inventor or inventors, but an oath or declaration for the application (§1.63) can only be made in accordance with §1.64.

(d) A showing may be required from the person filing the application that the filing was authorized where such authorization comes into question.

§ 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.


[48 FR 2709, Jan. 20, 1983]