

U.S. Patent and Trademark Office, Commerce

§ 1.14

§ 1.12 Assignment records open to public inspection.

(a)(1) Separate assignment records are maintained in the United States Patent and Trademark Office for patents and trademarks. The assignment records, relating to original or reissue patents, including digests and indexes (for assignments recorded on or after May 1, 1957), and published patent applications, are open to public inspection at the United States Patent and Trademark Office, and copies of patent assignment records may be obtained upon request and payment of the fee set forth in §1.19 of this chapter. See §2.200 of this chapter regarding trademark assignment records.

(2) All records of assignments of patents recorded before May 1, 1957, are maintained by the National Archives and Records Administration (NARA). The records are open to public inspection. Certified and uncertified copies of those assignment records are provided by NARA upon request and payment of the fees required by NARA.

(b) Assignment records, digests, and indexes relating to any pending or abandoned patent application, which is open to the public pursuant to §1.11 or for which copies or access may be supplied pursuant to §1.14, are available to the public. Copies of any assignment records, digests, and indexes that are not available to the public shall be obtainable only upon written authority of an inventor, the applicant, the assignee or an assignee of an undivided part interest, or a patent practitioner of record, or upon a showing that the person seeking such information is a bona fide prospective or actual purchaser, mortgagee, or licensee of such application, unless it shall be necessary to the proper conduct of business before the Office or as provided in this part.

(c) Any request by a member of the public seeking copies of any assignment records of any pending or abandoned patent application preserved in confidence under §1.14, or any information with respect thereto, must:

(1) Be in the form of a petition including the fee set forth in §1.17(g); or

(2) Include written authority granting access to the member of the public to the particular assignment records

from an inventor, the applicant, the assignee or an assignee of an undivided part interest, or a patent practitioner of record.

(d) An order for a copy of an assignment or other document should identify the reel and frame number where the assignment or document is recorded. If a document is identified without specifying its correct reel and frame, an extra charge as set forth in §1.21(j) will be made for the time consumed in making a search for such assignment.

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

[47 FR 41272, Sept. 17, 1982, as amended at 54 FR 6900, Feb. 15, 1989; 56 FR 65151, Dec. 13, 1991; 56 FR 66670, Dec. 24, 1991; 57 FR 29641, July 6, 1992; 60 FR 20221, Apr. 25, 1995; 61 FR 42802, Aug. 19, 1996; 65 FR 54657, Sept. 8, 2000; 65 FR 57051, Sept. 20, 2000; 68 FR 48288, Aug. 13, 2003; 69 FR 29877, May 26, 2004; 69 FR 56536, Sept. 21, 2004; 77 FR 48812, Aug. 14, 2012]

§ 1.13 Copies and certified copies.

(a) Non-certified copies of patents, and patent application publications and of any records, books, papers, or drawings within the jurisdiction of the United States Patent and Trademark Office and open to the public, will be furnished by the United States Patent and Trademark Office to any person, and copies of other records or papers will be furnished to persons entitled thereto, upon payment of the appropriate fee. See §2.201 of this chapter regarding copies of trademark records.

(b) Certified copies of patents, patent application publications, and trademark registrations and of any records, books, papers, or drawings within the jurisdiction of the United States Patent and Trademark Office and open to the public or persons entitled thereto will be authenticated by the seal of the United States Patent and Trademark Office and certified by the Director, or in his or her name, upon payment of the fee for the certified copy.

[68 FR 48288, Aug. 13, 2003, as amended at 68 FR 71006, Dec. 22, 2003]

§ 1.14 Patent applications preserved in confidence.

(a) *Confidentiality of patent application information.* Patent applications that have not been published under 35 U.S.C.

122(b) are generally preserved in confidence pursuant to 35 U.S.C. 122(a). Information concerning the filing, pendency, or subject matter of an application for patent, including status information, and access to the application, will only be given to the public as set forth in § 1.11 or in this section.

(1) Records associated with patent applications (see paragraph (g) for international applications) may be available in the following situations:

(i) *Patented applications and statutory invention registrations.* The file of an application that has issued as a patent or published as a statutory invention registration is available to the public as set forth in § 1.11(a). A copy of the patent application-as-filed, the file contents of the application, or a specific document in the file of such an application may be provided upon request and payment of the appropriate fee set forth in § 1.19(b).

(ii) *Published abandoned applications.* The file of an abandoned application that has been published as a patent application publication is available to the public as set forth in § 1.11(a). A copy of the application-as-filed, the file contents of the published application, or a specific document in the file of the published application may be provided to any person upon request, and payment of the appropriate fee set forth in § 1.19(b).

(iii) *Published pending applications.* A copy of the application-as-filed, the file contents of the application, or a specific document in the file of a pending application that has been published as a patent application publication may be provided to any person upon request, and payment of the appropriate fee set forth in § 1.19(b). If a redacted copy of the application was used for the patent application publication, the copy of the specification, drawings, and papers may be limited to a redacted copy. The Office will not provide access to the paper file of a pending application that has been published, except as provided in paragraph (c) or (i) of this section.

(iv) *Unpublished abandoned applications (including provisional applications) that are identified or relied upon.* The file contents of an unpublished, abandoned application may be made available to

the public if the application is identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication of an international application that was published in accordance with PCT Article 21(2). An application is considered to have been identified in a document, such as a patent, when the application number or serial number and filing date, first named inventor, title and filing date or other application specific information are provided in the text of the patent, but not when the same identification is made in a paper in the file contents of the patent and is not included in the printed patent. Also, the file contents may be made available to the public, upon a written request, if benefit of the abandoned application is claimed under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, or has published as a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, the file contents of the application, or a specific document in the file of the application may be provided to any person upon written request, and payment of the appropriate fee (§ 1.19(b)).

(v) *Unpublished pending applications (including provisional applications) whose benefit is claimed.* A copy of the file contents of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§ 1.19(b)), if the benefit of the application is claimed under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). A copy of the application-as-filed, or a specific document in the file of the pending application may also be provided to any person upon written request, and payment of the appropriate

fee (§1.19(b)). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.

(vi) *Unpublished pending applications (including provisional applications) that are incorporated by reference or otherwise identified.* A copy of the application as originally filed of an unpublished pending application may be provided to any person, upon written request and payment of the appropriate fee (§1.19(b)), if the application is incorporated by reference or otherwise identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2). The Office will not provide access to the paper file of a pending application, except as provided in paragraph (c) or (i) of this section.

(vii) *When a petition for access or a power to inspect is required.* Applications that were not published or patented, that are not the subject of a benefit claim under 35 U.S.C. 119(e), 120, 121, or 365 in an application that has issued as a U.S. patent, an application that has published as a statutory invention registration, a U.S. patent application publication, or an international patent application publication that was published in accordance with PCT Article 21(2), or are not identified in a U.S. patent, a statutory invention registration, a U.S. patent application publication, or an international patent application that was published in accordance with PCT Article 21(2), are not available to the public. If an application is identified in the file contents of another application, but not the published patent application or patent itself, a granted petition for access (see paragraph (i)), or a power to inspect (see paragraph (c)) is necessary to obtain the application, or a copy of the application.

(2) Information concerning a patent application may be communicated to the public if the patent application is identified in a published patent document or in an application as set forth in paragraphs (a)(1)(i) through (a)(1)(vi) of this section. The information that may be communicated to the public (*i.e.*, status information) includes:

(i) Whether the application is pending, abandoned, or patented;

(ii) Whether the application has been published under 35 U.S.C. 122(b);

(iii) The application “numerical identifier” which may be:

(A) The eight-digit application number (the two-digit series code plus the six-digit serial number); or

(B) The six-digit serial number plus any one of the filing date of the national application, the international filing date, or date of entry into the national stage; and

(iv) Whether another application claims the benefit of the application (*i.e.*, whether there are any applications that claim the benefit of the filing date under 35 U.S.C. 119(e), 120, 121 or 365 of the application), and if there are any such applications, the numerical identifier of the application, the specified relationship between the applications (*e.g.*, continuation), whether the application is pending, abandoned or patented, and whether the application has been published under 35 U.S.C. 122(b).

(b) *Electronic access to an application.* Where a copy of the application file or access to the application may be made available pursuant to this section, the Office may at its discretion provide access to only an electronic copy of the specification, drawings, and file contents of the application.

(c) *Power to inspect a pending or abandoned application.* Access to an application may be provided to any person if the application file is available, and the application contains written authority (*e.g.*, a power to inspect) granting access to such person. The written authority must be signed by:

(1) The applicant;

(2) A patent practitioner of record;

(3) The assignee or an assignee of an undivided part interest;

(4) The inventor or a joint inventor; or

(5) A registered attorney or agent named in the papers accompanying the application papers filed under §1.53 or the national stage documents filed under §1.495, if a power of attorney has not been appointed under §1.32.

(d) *Applications reported to Department of Energy.* Applications for patents which appear to disclose, purport to

disclose or do disclose inventions or discoveries relating to atomic energy are reported to the Department of Energy, which Department will be given access to the applications. Such reporting does not constitute a determination that the subject matter of each application so reported is in fact useful or is an invention or discovery, or that such application in fact discloses subject matter in categories specified by 42 U.S.C. 2181(c) and (d).

(e) *Decisions by the Director.* Any decision by the Director that would not otherwise be open to public inspection may be published or made available for public inspection if:

(1) The Director believes the decision involves an interpretation of patent laws or regulations that would be of precedential value; and

(2) The applicant is given notice and an opportunity to object in writing within two months on the ground that the decision discloses a trade secret or other confidential information. Any objection must identify the deletions in the text of the decision considered necessary to protect the information, or explain why the entire decision must be withheld from the public to protect such information. An applicant or party will be given time, not less than twenty days, to request reconsideration and seek court review before any portions of a decision are made public under this paragraph over his or her objection.

(f) *Notice to inventor of the filing of an application.* The Office may publish notice in the *Official Gazette* as to the filing of an application on behalf of an inventor by a person who otherwise shows sufficient proprietary interest in the matter.

(g) *International applications.* (1) Copies of international application files for international applications which designate the U.S. and which have been published in accordance with PCT Article 21(2), or copies of a document in such application files, will be furnished in accordance with PCT Articles 30 and 38 and PCT Rules 94.2 and 94.3, upon written request including a showing that the publication of the application has occurred and that the U.S. was designated, and upon payment of the appropriate fee (see § 1.19(b)), if:

(i) With respect to the Home Copy (the copy of the international application kept by the Office in its capacity as the Receiving Office, see PCT Article 12(1)), the international application was filed with the U.S. Receiving Office;

(ii) With respect to the Search Copy (the copy of an international application kept by the Office in its capacity as the International Searching Authority, see PCT Article 12(1)), the U.S. acted as the International Searching Authority, except for the written opinion of the International Searching Authority which shall not be available until the expiration of thirty months from the priority date; or

(iii) With respect to the Examination Copy (the copy of an international application kept by the Office in its capacity as the International Preliminary Examining Authority), the United States acted as the International Preliminary Examining Authority, an International Preliminary Examination Report has issued, and the United States was elected.

(2) A copy of an English language translation of a publication of an international application which has been filed in the United States Patent and Trademark Office pursuant to 35 U.S.C. 154(d)(4) will be furnished upon written request including a showing that the publication of the application in accordance with PCT Article 21(2) has occurred and that the U.S. was designated, and upon payment of the appropriate fee (§ 1.19(b)(4)).

(3) Access to international application files for international applications which designate the U.S. and which have been published in accordance with PCT Article 21(2), or copies of a document in such application files, will be permitted in accordance with PCT Articles 30 and 38 and PCT Rules 44ter.1, 94.2 and 94.3, upon written request including a showing that the publication of the application has occurred and that the U.S. was designated.

(4) In accordance with PCT Article 30, copies of an international application-as-filed under paragraph (a) of this section will not be provided prior to the international publication of the application pursuant to PCT Article 21(2).

U.S. Patent and Trademark Office, Commerce

§ 1.16

(5) Access to international application files under paragraphs (a)(1)(i) through (a)(1)(vi) and (g)(3) of this section will not be permitted with respect to the Examination Copy in accordance with PCT Article 38.

(h) *Access by a Foreign Intellectual Property Office.* (1) Access to the application-as-filed may be provided to any foreign intellectual property office participating with the Office in a bilateral or multilateral priority document exchange agreement (participating foreign intellectual property office), if the application contains written authority granting such access. Written authority under this paragraph should be submitted prior to filing a subsequent foreign application with a participating intellectual property office in which priority is claimed to the patent application.

(2) Written authority provided under paragraph (h)(1) of this section must include the title of the invention (§1.71(a)), comply with the requirements of paragraph (c) of this section, and be submitted on a separate document (§1.4(c)).

(3) Written authority provided under paragraph (h)(1) of this section will be treated as authorizing the Office to provide to all participating foreign intellectual property offices indicated in the written authority in accordance with their respective agreements with the Office:

(i) A copy of the application-as-filed; and

(ii) A copy of the application-as-filed with respect to any application the filing date of which is claimed by the application in which written authority under paragraph (h)(1) of this section is filed.

(i) *Access or copies in other circumstances.* The Office, either *sua sponte* or on petition, may also provide access or copies of all or part of an application if necessary to carry out an Act of Congress or if warranted by other special circumstances. Any petition by a member of the public seeking access to, or copies of, all or part of any pending or abandoned application preserved in confidence pursuant to paragraph (a) of this section, or any related papers, must include:

(1) The fee set forth in §1.17(g); and

(2) A showing that access to the application is necessary to carry out an Act of Congress or that special circumstances exist which warrant petitioner being granted access to all or part of the application.

[68 FR 38624, June 30, 2003, as amended at 68 FR 59886, Oct. 20, 2003; 68 FR 67805, Dec. 4, 2003; 68 FR 71006, Dec. 22, 2003; 69 FR 49997, Aug. 12, 2004; 69 FR 56536, Sept. 21, 2004; 72 FR 1667, Jan. 16, 2007; 77 FR 48812, Aug. 14, 2012; 78 FR 11052, Feb. 14, 2013]

§ 1.15 [Reserved]

FEES AND PAYMENT OF MONEY

AUTHORITY: Sections 1.16 through 1.22 also issued under 35 U.S.C. 41, 111, 119, 120, 132(b), 156, 157, 255, 302, and 311, Public Laws 103-465, 106-113, and 112-29.

§ 1.16 National application filing, search, and examination fees.

(a) Basic fee for filing each application under 35 U.S.C. 111 for an original patent, except design, plant, or provisional applications:

By a micro entity (§1.29)	\$70.00
By a small entity (§1.27(a))	140.00
By a small entity (§1.27(a)) if the application is submitted in compliance with the Office electronic filing system (§1.27(b)(2))	70.00
By other than a small or micro entity	280.00

(b) Basic fee for filing each application for an original design patent:

By a micro entity (§1.29)	\$45.00
By a small entity (§1.27(a))	90.00
By other than a small or micro entity	180.00

(c) Basic fee for filing each application for an original plant patent:

By a micro entity (§1.29)	\$45.00
By a small entity (§1.27(a))	90.00
By other than a small or micro entity	180.00

(d) Basic fee for filing each provisional application:

By a micro entity (§1.29)	\$65.00
By a small entity (§1.27(a))	130.00
By other than a small or micro entity	260.00

(e) Basic fee for filing each application for the reissue of a patent: