claim or claims in the same application. Any dependent claim which refers to more than one other claim ("multiple dependent claim") shall refer to such other claims in the alternative only. A multiple dependent claim shall not serve as a basis for any other multiple dependent claim. For fee calculation purposes under §1.16, a multiple dependent claim will be considered to be that number of claims to which direct reference is made therein. For fee calculation purposes also, any claim depending from a multiple dependent claim will be considered to be that number of claims to which direct reference is made in that multiple dependent claim. In addition to the other filing fees, any original application which is filed with, or is amended to include, multiple dependent claims must have paid therein the fee set forth in §1.16(j). Claims in dependent form shall be construed to include all the limitations of the claim incorporated by reference into the dependent claim. A multiple dependent claim shall be construed to incorporate by reference all the limitations of each of the particular claims in relation to which it is being considered.

(d)(1) The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description. (See §1.58(a).)

(2) See §§1.141 to 1.146 as to claiming different inventions in one application.

(e) Where the nature of the case admits, as in the case of an improvement, any independent claim should contain in the following order:

(1) A preamble comprising a general description of all the elements or steps of the claimed combination which are conventional or known,

(2) A phrase such as "wherein the improvement comprises," and

(3) Those elements, steps and/or relationships which constitute that portion of the claimed combination which the applicant considers as the new or improved portion.

(f) If there are several claims, they shall be numbered consecutively in Arabic numerals.

(g) The least restrictive claim should be presented as claim number 1, and all dependent claims should be grouped together with the claim or claims to which they refer to the extent practicable.

(h) The claim or claims must commence on a separate physical sheet or electronic page. Any sheet including a claim or portion of a claim may not contain any other parts of the application or other material.

(1) Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation.

§1.76 Application data sheet.

(a) Application data sheet: An application data sheet is a sheet or sheets, that may be submitted in a provisional application under 35 U.S.C. 111(b), a nonprovisional application under 35 U.S.C. 111(a), or a national stage application under 35 U.S.C. 371, and must be submitted when required by §1.55 or 1.78 to claim priority to or the benefit of a prior-filed application under 35 U.S.C. 119, 120, 121, or 365. An application data sheet must be titled "Application Data Sheet." An application data sheet must contain all of the section headings listed in paragraph (b) of this section, except as provided in paragraph (c)(2) of this section, with any appropriate data for each section heading. If an application data sheet is provided, the application data sheet is part of the application for which it has been submitted.

(b) Bibliographic data. Bibliographic data as used in paragraph (a) of this section includes:

(1) Inventor information. This information includes the legal name, residence, and mailing address of the inventor or each joint inventor.
(2) Correspondence information. This information includes the correspondence address, which may be indicated by reference to a customer number, to which correspondence is to be directed (see §1.33(a)).

(3) Application information. This information includes the title of the invention, the total number of drawing sheets, a suggested drawing figure for publication (in a nonprovisional application), any docket number assigned to the application, the type of application (e.g., utility, plant, design, reissue, provisional), whether the application discloses any significant part of the subject matter of an application under a secrecy order pursuant to §5.2 of this chapter (see §5.2(c)), and, for plant applications, the Latin name of the genus and species of the plant claimed, as well as the variety denomination. When information concerning the previously filed application is required under §1.57(a), application information also includes the reference to the previously filed application, indicating that the specification and any drawings of the application are replaced by the reference to the previously filed application, and specifying the previously filed application by application number, filing date, and the intellectual property authority or country in which the previously filed application was filed.

(4) Representative information. This information includes the registration number of each practitioner having a power of attorney in the application (preferably by reference to a customer number). Providing this information in the application data sheet does not constitute a power of attorney in the application (see §1.32).

(5) Domestic benefit information. This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and §1.78.

(6) Foreign priority information. This information includes the application number, country, and filing date of each foreign application for which priority is claimed. Providing this information in the application data sheet constitutes the claim for priority as required by 35 U.S.C. 119(b) and §1.55.

(7) Applicant information: This information includes the name (either natural person or juristic entity) and address of the legal representative, assignee, person to whom the inventor is under an obligation to assign the invention, or person who otherwise shows sufficient proprietary interest in the matter who is the applicant under §1.43 or §1.46. Providing assignment information in the application data sheet does not substitute for compliance with any requirement of part 3 of this chapter to have an assignment recorded by the Office.

(c) Correcting and updating an application data sheet. (1) Information in a previously submitted application data sheet, inventor’s oath or declaration under §1.63, §1.64 or §1.67, or otherwise of record, may be corrected or updated until payment of the issue fee by a new application data sheet providing corrected or updated information, except that inventorship changes must comply with the requirements of §1.48, foreign priority and domestic benefit information changes must comply with §§1.55 and 1.78, and correspondence address changes are governed by §1.33(a).

(2) An application data sheet providing corrected or updated information may include all of the sections listed in paragraph (b) of this section or only those sections containing changed or updated information. The application data sheet must include the section headings listed in paragraph (b) of this section for each section included in the application data sheet, and must identify the information that is being changed, with underlining for insertions, and strike-through or brackets for text removed, except that identification of information being changed is not required for an application data sheet included with an initial submission under 35 U.S.C. 371.

(d) Inconsistencies between application data sheet and other documents. For inconsistencies between information that is supplied by both an application data
sheet under this section and other documents:

(1) The most recent submission will govern with respect to inconsistencies as between the information provided in an application data sheet, a designation of a correspondence address, or by the inventor’s oath or declaration, except that:

(i) The most recent application data sheet will govern with respect to foreign priority (§1.55) or domestic benefit (§1.78) claims; and

(ii) The naming of the inventorship is governed by §1.41 and changes to inventorship or the names of the inventors is governed by §1.48.

(2) The information in the application data sheet will govern when inconsistent with the information supplied at the same time by a designation of correspondence address or the inventor’s oath or declaration. The information in the application data sheet will govern when inconsistent with the information supplied in an application data sheet. The Office will capture bibliographic information from the application data sheet. The Office will generally not review the inventor’s oath or declaration to determine if the bibliographic information contained therein is consistent with the bibliographic information provided in an application data sheet. Incorrect bibliographic information contained in an application data sheet may be corrected as provided in paragraph (c)(1) of this section.

(e) Signature requirement. An application data sheet must be signed in compliance with §1.33(b). An unsigned application data sheet will be treated only as a transmittal letter.

(f) Patent Law Treaty Model International Forms. The requirement in §1.55 or §1.78 for the presentation of a priority or benefit claim in an application under 35 U.S.C. 118 in an application data sheet will be satisfied by the presentation of such priority or benefit claim in the Patent Cooperation Treaty Request Form contained in the international application or the presence of such priority or benefit claim on the front page of the publication of the international application under PCT Article 21(2). The requirement in §1.55 or §1.78 for the presentation of a priority or benefit claim in an application data sheet will be satisfied in an application under 35 U.S.C. 111 by the presentation of such priority or benefit claim and presentation of the name of the applicant in a Patent Cooperation Treaty Request Form. If a Patent Cooperation Treaty Request Form is submitted in an application under 35 U.S.C. 111, the Patent Cooperation
Treaty Request Form must be accompanied by a clear indication that treatment of the application as an application under 35 U.S.C. 111 is desired.


§ 1.77 Arrangement of application elements.

(a) The elements of the application, if applicable, should appear in the following order:

(1) Utility application transmittal form.
(2) Fee transmittal form.
(3) Application data sheet (see §1.76).
(4) Specification.
(5) Drawings.
(6) The inventor's oath or declaration.

(b) The specification should include the following sections in order:

(1) Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant (unless included in the application data sheet).
(2) Cross-reference to related applications.
(3) Statement regarding federally sponsored research or development.
(4) The names of the parties to a joint research agreement.
(5) Reference to a “Sequence Listing,” a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see §1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified.
(6) Statement regarding prior disclosures by the inventor or a joint inventor.
(7) Background of the invention.
(8) Brief summary of the invention.
(9) Brief description of the several views of the drawing.
(10) Detailed description of the invention.
(11) A claim or claims.
(12) Abstract of the disclosure.
(13) “Sequence Listing,” if on paper (see §§1.821 through 1.825).

(c) The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type.


§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a) Claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application. An applicant in a nonprovisional application, other than for a design patent, or an international application designating the United States of America may claim the benefit of one or more prior-filed provisional applications under the conditions set forth in 35 U.S.C. 119(e) and this section.

(1) Except as provided in paragraph (b) of this section, the nonprovisional application or international application designating the United States of America must be filed not later than twelve months after the date on which the provisional application was filed, or be entitled to claim the benefit under 35 U.S.C. 120, 121, or 365(c) of an application that was filed not later than twelve months after the date on which the provisional application was filed. This twelve-month period is subject to 35 U.S.C. 21(b) (and §1.7(a)) and PCT Rule 80.5.

(2) Each prior-filed provisional application must name the inventor or a joint inventor named in the later-filed application as the inventor or a joint inventor. In addition, each prior-filed provisional application must be entitled to a filing date as set forth in §1.53(c), and the basic filing fee set forth in §1.16(d) must have been paid for such provisional application within the time period set forth in §1.53(g).

(3) Any nonprovisional application or international application designating the United States of America that claims the benefit of one or more prior-filed provisional applications must contain, or be amended to contain, a reference to each such prior-filed provisional application, identifying it by the