

§ 1.1071

§ 1.1071 Grant of protection for an industrial design only upon issuance of a patent.

A grant of protection for an industrial design that is the subject of an international registration shall only arise in the United States through the issuance of a patent pursuant to 35 U.S.C. 389(d) or 171, and in accordance with 35 U.S.C. 153.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

EDITORIAL NOTE: Part 2 is placed in the separate grouping of parts pertaining to trademarks regulations.

PART 3—ASSIGNMENT, RECORDING AND RIGHTS OF ASSIGNEE

Sec.

3.1 Definitions.

DOCUMENTS ELIGIBLE FOR RECORDING

- 3.11 Documents which will be recorded.
- 3.16 Assignability of trademarks prior to filing of an allegation of use.

REQUIREMENTS FOR RECORDING

- 3.21 Identification of patents and patent applications.
- 3.24 Requirements for documents and cover sheets relating to patents and patent applications.
- 3.25 Recording requirements for trademark applications and registrations.
- 3.26 English language requirement.
- 3.27 Mailing address for submitting documents to be recorded.
- 3.28 Requests for recording.

COVER SHEET REQUIREMENTS

- 3.31 Cover sheet content.
- 3.34 Correction of cover sheet errors.

FEEs

- 3.41 Recording fees.

DATE AND EFFECT OF RECORDING

- 3.51 Recording date.
- 3.54 Effect of recording.
- 3.56 Conditional assignments.
- 3.58 Governmental registers.

DOMESTIC REPRESENTATIVE

- 3.61 Domestic representative.

ACTION TAKEN BY ASSIGNEE

- 3.71 Prosecution by assignee.

37 CFR Ch. I (7–1–25 Edition)

- 3.73 Establishing right of assignee to take action.

ISSUANCE TO ASSIGNEE

- 3.81 Issue of patent to assignee.
- 3.85 Issue of registration to assignee.

AUTHORITY: 15 U.S.C. 1123; 35 U.S.C. 2(b)(2).

SOURCE: 57 FR 29642, July 6, 1992, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 3 appear at 68 FR 14337, Mar. 25, 2003.

§ 3.1 Definitions.

For purposes of this part, the following definitions shall apply:

Application means a national application for patent, an international patent application that designates the United States of America, an international design application that designates the United States of America, or an application to register a trademark under section 1 or 44 of the Trademark Act, 15 U.S.C. 1051, or 15 U.S.C. 1126, unless otherwise indicated.

Assignment means a transfer by a party of all or part of its right, title and interest in a patent, patent application, registered mark or a mark for which an application to register has been filed.

Document means a document which a party requests to be recorded in the Office pursuant to § 3.11 and which affects some interest in an application, patent, or registration.

Office means the United States Patent and Trademark Office.

Recorded document means a document which has been recorded in the Office pursuant to § 3.11.

Registration means a trademark registration issued by the Office.

[69 FR 29878, May 26, 2004, as amended at 80 FR 17969, Apr. 2, 2015]

DOCUMENTS ELIGIBLE FOR RECORDING

§ 3.11 Documents which will be recorded.

(a) Assignments of applications, patents, and registrations, and other documents relating to interests in patent applications and patents, accompanied by completed cover sheets as specified in § 3.28 and § 3.31, will be recorded in the Office. Other documents, accompanied by completed cover sheets as specified in § 3.28 and § 3.31, affecting

title to applications, patents, or registrations, will be recorded as provided in this part or at the discretion of the Director.

(b) Executive Order 9424 of February 18, 1944 (9 FR 1959, 3 CFR 1943-1948 Comp., p. 303) requires the several departments and other executive agencies of the Government, including Government-owned or Government-controlled corporations, to forward promptly to the Director for recording all licenses, assignments, or other interests of the Government in or under patents or patent applications. Assignments and other documents affecting title to patents or patent applications and documents not affecting title to patents or patent applications required by Executive Order 9424 to be filed will be recorded as provided in this part.

(c) A joint research agreement or an excerpt of a joint research agreement will also be recorded as provided in this part.

[62 FR 53202, Oct. 10, 1997, as amended at 70 FR 1824, Jan. 11, 2005; 70 FR 54267, Sept. 14, 2005; 78 FR 62408, Oct. 21, 2013]

§ 3.16 Assignability of trademarks prior to filing of an allegation of use.

Before an allegation of use under either 15 U.S.C. 1051(c) or 15 U.S.C. 1051(d) is filed, an applicant may only assign an application to register a mark under 15 U.S.C. 1051(b) to a successor to the applicant's business, or portion of the business to which the mark pertains, if that business is ongoing and existing.

[64 FR 48926, Sept. 8, 1999]

REQUIREMENTS FOR RECORDING

§ 3.21 Identification of patents and patent applications.

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number; e.g., 07/123,456). An assignment relating to an international patent application which designates the United States of America must identify the international application by the international application number; e.g., PCT/

US2012/012345. An assignment relating to an international design application which designates the United States of America must identify the international design application by the international registration number or by the U.S. application number assigned to the international design application. If an assignment of a patent application filed under § 1.53(b) of this chapter is executed concurrently with, or subsequent to, the execution of the patent application, but before the patent application is filed, it must identify the patent application by the name of each inventor and the title of the invention so that there can be no mistake as to the patent application intended. If an assignment of a provisional application under § 1.53(c) of this chapter is executed before the provisional application is filed, it must identify the provisional application by the name of each inventor and the title of the invention so that there can be no mistake as to the provisional application intended.

[80 FR 17969, Apr. 2, 2015]

§ 3.24 Requirements for documents and cover sheets relating to patents and patent applications.

(a) *For electronic submissions:* Either a copy of the original document or an extract of the original document may be submitted for recording. All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), the document must be legible and a 2.5 cm (one-inch) margin must be present on all sides.

(b) *For paper or facsimile submissions:* Either a copy of the original document or an extract of the original document must be submitted for recording. Only one side of each page may be used. The paper size must be either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), and in either case, a 2.5 cm (one-inch) margin must be present on all sides. For paper submissions, the paper used should be flexible, strong

§ 3.25

white, non-shiny, and durable. The Office will not return recorded documents, so original documents must not be submitted for recording.

[69 FR 29879, May 26, 2004]

§ 3.25 Recording requirements for trademark applications and registrations.

(a) *Documents affecting title.* To record documents affecting title to a trademark application or registration, a legible cover sheet (*see* § 3.31) and one of the following must be submitted:

- (1) A copy of the original document;
- (2) A copy of an extract from the document evidencing the effect on title; or
- (3) A statement signed by both the party conveying the interest and the party receiving the interest explaining how the conveyance affects title.

(b) *Name changes.* Only a legible cover sheet is required (*See* § 3.31).

(c) *All documents.* (1) *For electronic submissions:* All documents must be submitted as digitized images in Tagged Image File Format (TIFF) or another form as prescribed by the Director. When printed to a paper size of either 21.6 by 27.9 cm (8½ by 11 inches) or 21.0 by 29.7 cm (DIN size A4), a 2.5 cm (one-inch) margin must be present on all sides.

(2) *For paper or facsimile submissions:* All documents should be submitted on white and non-shiny paper that is either 8½ by 11 inches (21.6 by 27.9 cm) or DIN size A4 (21.0 by 29.7 cm) with a one-inch (2.5 cm) margin on all sides in either case. Only one side of each page may be used. The Office will not return recorded documents, so original documents should not be submitted for recording.

[69 FR 29879, May 26, 2004]

§ 3.26 English language requirement.

The Office will accept and record non-English language documents only if accompanied by an English translation signed by the individual making the translation.

[62 FR 53202, Oct. 10, 1997]

§ 3.27 Mailing address for submitting documents to be recorded.

Documents and cover sheets submitted by mail for recordation should

37 CFR Ch. I (7–1–25 Edition)

be addressed to Mail Stop Assignment Recordation Services, Director of the United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313–1450, unless they are filed together with new applications.

[69 FR 29879, May 26, 2004]

§ 3.28 Requests for recording.

Each document submitted to the Office for recording must include a single cover sheet (as specified in § 3.31) referring either to those patent applications and patents, or to those trademark applications and registrations, against which the document is to be recorded. If a document to be recorded includes interests in, or transactions involving, both patents and trademarks, then separate patent and trademark cover sheets, each accompanied by a copy of the document to be recorded, must be submitted. If a document to be recorded is not accompanied by a completed cover sheet, the document and the incomplete cover sheet will be returned pursuant to § 3.51 for proper completion, in which case the document and a completed cover sheet should be resubmitted.

[70 FR 56123, Sept. 26, 2005]

COVER SHEET REQUIREMENTS

§ 3.31 Cover sheet content.

(a) Each patent or trademark cover sheet required by § 3.28 must contain:

- (1) The name of the party conveying the interest;
- (2) The name and address of the party receiving the interest;
- (3) A description of the interest conveyed or transaction to be recorded;
- (4) Identification of the interests involved:

(i) *For trademark assignments and trademark name changes:* Each trademark registration number and each trademark application number, if known, against which the Office is to record the document. If the trademark application number is not known, a copy of the application or a reproduction of the trademark must be submitted, along with an estimate of the date that the Office received the application; or

(ii) *For any other document affecting title to a trademark or patent application, registration or patent:* Each trademark or patent application number or each trademark registration number or patent against which the document is to be recorded, or an indication that the document is filed together with a patent application;

(5) The name and address of the party to whom correspondence concerning the request to record the document should be mailed;

(6) The date the document was executed;

(7) The signature of the party submitting the document. For an assignment document or name change filed electronically, the person who signs the cover sheet must either:

(i) Place a symbol comprised of letters, numbers, and/or punctuation marks between forward slash marks (e.g., /Thomas O'Malley III/) in the signature block on the electronic submission; or

(ii) Sign the cover sheet using some other form of electronic signature specified by the Director.

(8) For trademark assignments, the entity and citizenship of the party receiving the interest. In addition, if the party receiving the interest is a domestic partnership or domestic joint venture, the cover sheet must set forth the names, legal entities, and national citizenship (or the state or country of organization) of all general partners or active members that compose the partnership or joint venture.

(b) A cover sheet should not refer to both patents and trademarks, since any information, including information about pending patent applications, submitted with a request for recordation of a document against a trademark application or trademark registration will become public record upon recordation.

(c) Each patent cover sheet required by § 3.28 seeking to record a governmental interest as provided by § 3.11(b) must:

(1) Indicate that the document relates to a Government interest; and

(2) Indicate, if applicable, that the document to be recorded is not a document affecting title (see § 3.41(b)).

(d) Each trademark cover sheet required by § 3.28 seeking to record a document against a trademark application or registration should include, in addition to the serial number or registration number of the trademark, identification of the trademark or a description of the trademark, against which the Office is to record the document.

(e) Each patent or trademark cover sheet required by § 3.28 should contain the number of applications, patents or registrations identified in the cover sheet and the total fee.

(f) Each trademark cover sheet should include the citizenship of the party conveying the interest.

(g) The cover sheet required by § 3.28 seeking to record a joint research agreement or an excerpt of a joint research agreement as provided by § 3.11(c) must:

(1) Identify the document as a "joint research agreement" (in the space provided for the description of the interest conveyed or transaction to be recorded if using an Office-provided form);

(2) Indicate the name of the owner of the application or patent (in the space provided for the name and address of the party receiving the interest if using an Office-provided form);

(3) Indicate the name of each other party to the joint research agreement party (in the space provided for the name of the party conveying the interest if using an Office-provided form); and

(4) Indicate the date the joint research agreement was executed.

(h) The assignment cover sheet required by § 3.28 for a patent application or patent will be satisfied by the Patent Law Treaty Model International Request for Recordation of Change in Applicant or Owner Form, Patent Law Treaty Model International Request for Recordation of a License/Cancellation of the Recordation of a License Form, Patent Law Treaty Model Certificate of Transfer Form or Patent Law Treaty Model International Request for Recordation of a Security Interest/Cancellation of the Recordation of a Security Interest Form, as applicable, except where the assignment is also an oath or declaration under § 1.63 of this chapter. An assignment cover sheet required by § 3.28 must contain a

§ 3.34

conspicuous indication of an intent to utilize the assignment as an oath or declaration under § 1.63 of this chapter.

[57 FR 29642, July 6, 1992, as amended at 62 FR 53202, Oct. 10, 1997; 64 FR 48927, Sept. 8, 1999; 67 FR 79523, Dec. 30, 2002; 69 FR 29879, May 26, 2004; 70 FR 1824, Jan. 11, 2005; 70 FR 56128, Sept. 26, 2005; 73 FR 67775, Nov. 17, 2008; 77 FR 48825, Aug. 14, 2012; 78 FR 62408, Oct. 21, 2013]

§ 3.34 Correction of cover sheet errors.

(a) An error in a cover sheet recorded pursuant to § 3.11 will be corrected only if:

(1) The error is apparent when the cover sheet is compared with the recorded document to which it pertains, and

(2) A corrected cover sheet is filed for recordation.

(b) The corrected cover sheet must be accompanied by a copy of the document originally submitted for recording and by the recording fee as set forth in § 3.41.

[69 FR 29879, May 26, 2004]

FEES

§ 3.41 Recording fees.

(a) All requests to record documents must be accompanied by the appropriate fee. Except as provided in paragraph (b) of this section, a fee is required for each application, patent and registration against which the document is recorded as identified in the cover sheet. The recording fee is set in § 1.21(h) of this chapter for patents and in § 2.6(b)(6) of this chapter for trademarks.

(b) No fee is required for each patent application and patent against which a document required by Executive Order 9424 is to be filed if:

(1) The document does not affect title and is so identified in the cover sheet (see § 3.31(c)(2)); and

(2) The document and cover sheet are either: Faxed or electronically submitted as prescribed by the Director, or mailed to the Office in compliance with § 3.27.

[63 FR 52159, Sept. 30, 1998, as amended at 69 FR 29879, May 26, 2004]

37 CFR Ch. I (7-1-25 Edition)

DATE AND EFFECT OF RECORDING

§ 3.51 Recording date.

The date of recording of a document is the date the document meeting the requirements for recording set forth in this part is filed in the Office. A document which does not comply with the identification requirements of § 3.21 will not be recorded. Documents not meeting the other requirements for recording, for example, a document submitted without a completed cover sheet or without the required fee, will be returned for correction to the sender where a correspondence address is available. The returned papers, stamped with the original date of receipt by the Office, will be accompanied by a letter which will indicate that if the returned papers are corrected and resubmitted to the Office within the time specified in the letter, the Office will consider the original date of filing of the papers as the date of recording of the document. The procedure set forth in § 1.8 or § 1.10 of this chapter may be used for resubmissions of returned papers to have the benefit of the date of deposit in the United States Postal Service. If the returned papers are not corrected and resubmitted within the specified period, the date of filing of the corrected papers will be considered to be the date of recording of the document. The specified period to resubmit the returned papers will not be extended.

[62 FR 53203, Oct. 10, 1997]

§ 3.54 Effect of recording.

The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to an application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

§ 3.56 Conditional assignments.

Assignments which are made conditional on the performance of certain acts or events, such as the payment of money or other condition subsequent, if recorded in the Office, are regarded

as absolute assignments for Office purposes until cancelled with the written consent of all parties or by the decree of a court of competent jurisdiction. The Office does not determine whether such conditions have been fulfilled.

§ 3.58 Governmental registers.

(a) The Office will maintain a Departmental Register to record governmental interests required to be recorded by Executive Order 9424. This Departmental Register will not be open to public inspection but will be available for examination and inspection by duly authorized representatives of the Government. Governmental interests recorded on the Departmental Register will be available for public inspection as provided in § 1.12.

(b) The Office will maintain a Secret Register to record governmental interests required to be recorded by Executive Order 9424. Any instrument to be recorded will be placed on this Secret Register at the request of the department or agency submitting the same. No information will be given concerning any instrument in such record or register, and no examination or inspection thereof or of the index thereto will be permitted, except on the written authority of the head of the department or agency which submitted the instrument and requested secrecy, and the approval of such authority by the Director. No instrument or record other than the one specified may be examined, and the examination must take place in the presence of a designated official of the Patent and Trademark Office. When the department or agency which submitted an instrument no longer requires secrecy with respect to that instrument, it must be recorded anew in the Departmental Register.

[62 FR 53203, Oct. 10, 1997]

DOMESTIC REPRESENTATIVE

§ 3.61 Domestic representative.

If the assignee of a patent, patent application, trademark application or trademark registration is not domiciled in the United States, the assignee may designate a domestic representative in a document filed in the United States Patent and Trademark Office.

The designation should state the name and address of a person residing within the United States on whom may be served process or notice of proceedings affecting the application, patent or registration or rights thereunder.

[67 FR 79522, Dec. 30, 2002]

ACTION TAKEN BY ASSIGNEE

§ 3.71 Prosecution by assignee.

(a) *Patents—conducting of prosecution.* One or more assignees as defined in paragraph (b) of this section may conduct prosecution of a national patent application as the applicant under § 1.46 of this title, or conduct prosecution of a supplemental examination or reexamination proceeding, to the exclusion of the inventor or previous applicant or patent owner. Conflicts between purported assignees are handled in accordance with § 3.73(c)(3).

(b) *Patents—assignee(s) who can prosecute.* The assignee(s) who may conduct either the prosecution of a national application for patent as the applicant under § 1.46 of this title or a supplemental examination or reexamination proceeding are:

(1) *A single assignee.* An assignee of the entire right, title and interest in the application or patent, or

(2) *Partial assignee(s) together or with inventor(s).* All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent, who together own the entire right, title and interest in the application or patent. A partial assignee is any assignee having less than the entire right, title and interest in the application or patent. The word “assignee” as used in this chapter means with respect to patent matters the single assignee of the entire right, title and interest in the application or patent if there is such a single assignee, or all of the partial assignees, or all of the partial assignee and inventors who have not assigned their interest in the application or patent, who together own the entire right, title and interest in the application or patent.

(c) *Patents—Becoming of record.* An assignee becomes of record as the applicant in a national patent application

§ 3.73

37 CFR Ch. I (7–1–25 Edition)

under § 1.46 of this title, and in a supplemental examination or reexamination proceeding, by filing a statement in compliance with § 3.73(c) that is signed by a party who is authorized to act on behalf of the assignee.

(d) *Trademarks.* The assignee of a trademark application or registration may prosecute a trademark application, submit documents to maintain a trademark registration, or file papers against a third party in reliance on the assignee's trademark application or registration, to the exclusion of the original applicant or previous assignee. The assignee must establish ownership in compliance with § 3.73(b).

[65 FR 54682, Sept. 8, 2000, as amended at 77 FR 48825, Aug. 14, 2012]

§ 3.73 Establishing right of assignee to take action.

(a) The original applicant is presumed to be the owner of an application for an original patent, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application or registration, unless there is an assignment.

(b) In order to request or take action in a trademark matter, the assignee must establish its ownership of the trademark property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(1) Documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). The documents submitted to establish ownership may be required to be recorded pursuant to § 3.11 in the assignment records of the Office as a condition to permitting the assignee to take action in a matter pending before the Office; or

(2) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

(c)(1) In order to request or take action in a patent matter, an assignee who is not the original applicant must establish its ownership of the patent property of paragraph (a) of this section to the satisfaction of the Director. The establishment of ownership by the assignee may be combined with the paper that requests or takes the action. Ownership is established by submitting to the Office a signed statement identifying the assignee, accompanied by either:

(i) Documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment). The submission of the documentary evidence must be accompanied by a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or

(ii) A statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

(2) If the submission is by an assignee of less than the entire right, title and interest (*e.g.*, more than one assignee exists) the Office may refuse to accept the submission as an establishment of ownership unless:

(i) Each assignee establishes the extent (by percentage) of its ownership interest, so as to account for the entire right, title and interest in the application or patent by all parties including inventors; or

(ii) Each assignee submits a statement identifying the parties including inventors who together own the entire right, title and interest and stating that all the identified parties own the entire right, title and interest.

(3) If two or more purported assignees file conflicting statements under paragraph (c)(1) of this section, the Director will determine which, if any, purported assignee will be permitted to control prosecution of the application.

(d) The submission establishing ownership under paragraph (b) or (c) of this section must show that the person

signing the submission is a person authorized to act on behalf of the assignee by:

(1) Including a statement that the person signing the submission is authorized to act on behalf of the assignee;

(2) Being signed by a person having apparent authority to sign on behalf of the assignee; or

(3) For patent matters only, being signed by a practitioner of record.

[77 FR 48825, Aug. 14, 2012]

ISSUANCE TO ASSIGNEE

§ 3.81 Issue of patent to assignee.

(a) *With payment of the issue fee:* An application may issue in the name of the assignee consistent with the application's assignment where a request for such issuance is submitted with payment of the issue fee, provided the assignment has been previously recorded in the Office. If the assignment has not been previously recorded, the request must state that the document has been filed for recordation as set forth in § 3.11.

(b) *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

(c) *Partial assignees.* (1) If one or more assignee, together with one or more inventor, holds the entire right, title, and interest in the application, the patent may issue in the names of the assignee and the inventor.

(2) If multiple assignees hold the entire right, title, and interest to the exclusion of all the inventors, the patent may issue in the names of the multiple assignees.

[69 FR 29879, May 26, 2004]

§ 3.85 Issue of registration to assignee.

The certificate of registration may be issued to the assignee of the applicant, or in a new name of the applicant, provided that the party files a written request in the trademark application by the time the application is being prepared for issuance of the certificate of registration, and the appropriate document is recorded in the Office. If the assignment or name change document has not been recorded in the Office, then the written request must state that the document has been filed for recordation. The address of the assignee must be made of record in the application file.

PART 4—COMPLAINTS REGARDING INVENTION PROMOTERS

Sec.

- 4.1 Complaints regarding invention promoters.
- 4.2 Definitions.
- 4.3 Submitting complaints.
- 4.4 Invention promoter reply.
- 4.5 Notice by publication.
- 4.6 Attorneys and Agents.

AUTHORITY: 35 U.S.C. 2(b)(2) and 297.

SOURCE: 65 FR 3129, Jan. 20, 2000, unless otherwise noted.

§ 4.1 Complaints regarding invention promoters.

These regulations govern the Patent and Trademark Office's (Office) responsibilities under the Inventors' Rights Act of 1999, which can be found in the U.S. Code at 35 U.S.C. 297. The Act requires the Office to provide a forum for the publication of complaints concerning invention promoters. The Office will not conduct any independent investigation of the invention promoter. Although the Act provides additional civil remedies for persons injured by invention promoters, those remedies must be pursued by the injured party without the involvement of the Office.

§ 4.2 Definitions.

(a) *Invention Promoter* means any person, firm, partnership, corporation, or other entity who offers to perform or performs invention promotion services for, or on behalf of, a customer, and