

§ 1.155

(1) Preamble, stating the name of the applicant, title of the design, and a brief description of the nature and intended use of the article in which the design is embodied.

(2) Cross-reference to related applications (unless included in the application data sheet).

(3) Statement regarding federally sponsored research or development.

(4) Description of the figure or figures of the drawing.

(5) Feature description.

(6) A single claim.

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

[65 FR 54674, Sept. 8, 2000]

§ 1.155 Expedited examination of design applications.

(a) The applicant may request that the Office expedite the examination of a design application. To qualify for expedited examination:

(1) The application must include drawings in compliance with § 1.84;

(2) The applicant must have conducted a preexamination search; and

(3) The applicant must file a request for expedited examination including:

(i) The fee set forth in § 1.17(k); and

(ii) A statement that a preexamination search was conducted. The statement must also indicate the field of search and include an information disclosure statement in compliance with § 1.98.

(b) The Office will not examine an application that is not in condition for examination (*e.g.*, missing basic filing fee) even if the applicant files a request for expedited examination under this section.

[65 FR 54674, Sept. 8, 2000]

PLANT PATENTS

§ 1.161 Rules applicable.

The rules relating to applications for patent for other inventions or discoveries are also applicable to applications for patents for plants except as otherwise provided.

37 CFR Ch. I (7-1-02 Edition)

§ 1.162 Applicant, oath or declaration.

The applicant for a plant patent must be the person who has invented or discovered and asexually reproduced the new and distinct variety of plant for which a patent is sought (or as provided in §§ 1.42, 1.43, and 1.47). The oath or declaration required of the applicant, in addition to the averments required by § 1.63, must state that he or she has asexually reproduced the plant. Where the plant is a newly found plant the oath or declaration must also state that it was found in a cultivated area.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2713, Jan. 20, 1983]

§ 1.163 Specification and arrangement of application elements in a plant application.

(a) The specification must contain as full and complete a disclosure as possible of the plant and the characteristics thereof that distinguish the same over related known varieties, and its antecedents, and must particularly point out where and in what manner the variety of plant has been asexually reproduced. For a newly found plant, the specification must particularly point out the location and character of the area where the plant was discovered.

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

(1) Plant application transmittal form.

(2) Fee transmittal form.

(3) Application data sheet (see § 1.76).

(4) Specification.

(5) Drawings (in duplicate).

(6) Executed oath or declaration (§ 1.162).

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

(1) Title of the invention, which may include an introductory portion stating the name, citizenship, and residence of the applicant.

(2) Cross-reference to related applications (unless included in the application data sheet).

(3) Statement regarding federally sponsored research or development.

(4) Latin name of the genus and species of the plant claimed.

(5) Variety denomination.

- (6) Background of the invention.
- (7) Brief summary of the invention.
- (8) Brief description of the drawing.
- (9) Detailed botanical description.
- (10) A single claim.
- (11) Abstract of the disclosure.

(d) The text of the specification or sections defined in paragraph (c) of this section, if applicable, should be preceded by a section heading in upper case, without underlining or bold type.

[65 FR 54675, Sept. 8, 2000]

§ 1.164 Claim.

The claim shall be in formal terms to the new and distinct variety of the specified plant as described and illustrated, and may also recite the principal distinguishing characteristics. More than one claim is not permitted.

(35 U.S.C. 162)

§ 1.165 Plant drawings.

(a) Plant patent drawings should be artistically and competently executed and must comply with the requirements of § 1.84. View numbers and reference characters need not be employed unless required by the examiner. The drawing must disclose all the distinctive characteristics of the plant capable of visual representation.

(b) The drawings may be in color. The drawing must be in color if color is a distinguishing characteristic of the new variety. Two copies of color drawings or photographs and a black and white photocopy that accurately depicts, to the extent possible, the subject matter shown in the color drawing or photograph must be submitted.

[58 FR 38726, July 20, 1993, as amended at 65 FR 57058, Sept. 20, 2000]

§ 1.166 Specimens.

The applicant may be required to furnish specimens of the plant, or its flower or fruit, in a quantity and at a time in its stage of growth as may be designated, for study and inspection. Such specimens, properly packed, must be forwarded in conformity with instructions furnished to the applicant. When it is not possible to forward such specimens, plants must be made available for official inspection where grown.

(35 U.S.C. 114, 161)

§ 1.167 Examination.

Applications may be submitted by the Patent and Trademark Office to the Department of Agriculture for study and report.

[62 FR 53196, Oct. 10, 1997]

REISSUES

AUTHORITY: Secs. 1.171 to 1.179 also issued under 35 U.S.C. 251.

§ 1.171 Application for reissue.

An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and in addition, must comply with the requirements of the rules relating to reissue applications.

[62 FR 53196, Oct. 10, 1997]

§ 1.172 Applicants, assignees.

(a) A reissue oath must be signed and sworn to or declaration made by the inventor or inventors except as otherwise provided (see §§ 1.42, 1.43, 1.47), and must be accompanied by the written consent of all assignees, if any, owning an undivided interest in the patent, but a reissue oath may be made and sworn to or declaration made by the assignee of the entire interest if the application does not seek to enlarge the scope of the claims of the original patent. All assignees consenting to the reissue must establish their ownership interest in the patent by filing in the reissue application a submission in accordance with the provisions of § 3.73(b) of this chapter.

(b) A reissue will be granted to the original patentee, his legal representatives or assigns as the interest may appear.

(35 U.S.C. 6, Pub. L. 97-247)

[24 FR 10332, Dec. 22, 1959, as amended at 48 FR 2713, Jan. 20, 1983; 62 FR 53196, Oct. 10, 1997]

§ 1.173 Reissue specification, drawings, and amendments.

(a) *Contents of a reissue application.* An application for reissue must contain the entire specification, including the claims, and the drawings of the