

## § 1.611

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

genuineness of documents which will avoid unnecessary proof, any limitations on the number of expert witnesses, the time and place for conducting a deposition (§1.673(g)), and any other matter as may aid in the disposition of the interference. After a conference, the administrative patent judge may enter any order which may be appropriate.

(e) The administrative patent judge may determine a proper course of conduct in an interference for any situation not specifically covered by this part.

[60 FR 14520, Mar. 17, 1995]

### § 1.611 Declaration of interference.

(a) Notice of declaration of an interference will be sent to each party.

(b) When a notice of declaration is returned to the Patent and Trademark Office undelivered, or in any other circumstance where appropriate, an administrative patent judge may send a copy of the notice to a patentee named in a patent involved in an interference or the patentee's assignee of record in the Patent and Trademark Office or order publication of an appropriate notice in the *Official Gazette*.

(c) The notice of declaration shall specify:

(1) The name and residence of each party involved in the interference;

(2) The name and address of record of any attorney or agent of record in any application or patent involved in the interference;

(3) The name of any assignee of record in the Patent and Trademark Office;

(4) The identity of any application or patent involved in the interference;

(5) Where a party is accorded the benefit of the filing date of an earlier application, the identity of the earlier application;

(6) The count or counts and, if there is more than one count, the examiner's explanation why the counts define different patentable inventions;

(7) The claim or claims of any application or any patent which correspond to each count;

(8) The examiner's explanation as to why each claim designated as corresponding to a count is directed to the same patentable invention as the count

and why each claim designated as not corresponding to any count is not directed to the same patentable invention as any count; and

(9) The order of the parties.

(d) The notice of declaration may also specify the time for:

(1) Filing a preliminary statement as provided in §1.621(a);

(2) Serving notice that a preliminary statement has been filed as provided in §1.621(b); and

(3) Filing preliminary motions authorized by §1.633.

(e) Notice may be given in the *Official Gazette* that an interference has been declared involving a patent.

[49 FR 48455, Dec. 12, 1984; 50 FR 23123, May 31, 1985, as amended at 60 FR 14521, Mar. 17, 1995]

### § 1.612 Access to applications.

(a) After an interference is declared, each party shall have access to and may obtain copies of the files of any application set out in the notice declaring the interference, except for affidavits filed under §1.131 and any evidence and explanation under §1.608 filed separate from an amendment. A party seeking access to any abandoned or pending application referred to in the opponent's involved application or access to any pending application referred to in the opponent's patent must file a motion under §1.635. See §1.11(e) concerning public access to interference files.

(b) After preliminary motions under §1.633 are decided (§1.640(b)), each party shall have access to and may obtain copies of any affidavit filed under §1.131 and any evidence and explanation filed under §1.608 in any application set out in the notice declaring the interference.

(c) Any evidence and explanation filed under §1.608 in the file of any application identified in the notice declaring the interference shall be served when required by §1.617(b).

(d) The parties at any time may agree to exchange copies of papers in the files of any application identified in the notice declaring the interference.

[49 FR 48455, Dec. 12, 1984; 50 FR 23124, May 31, 1985, as amended at 53 FR 23735, June 23, 1988; 60 FR 14521, Mar. 17, 1995]