

§ 1.64

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

the change in power of attorney (or authorization of agent) or correspondence address must be identified in the continuation or divisional application. Otherwise, the Office may not recognize in the continuation or divisional application the change of power of attorney (or authorization of agent) or correspondence address during the prosecution of the prior application.

(5) A newly executed oath or declaration must be filed in a continuation or divisional application naming an inventor not named in the prior application.

(e) A newly executed oath or declaration must be filed in any continuation-in-part application, which application may name all, more, or fewer than all of the inventors named in the prior application.

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

[48 FR 2711, Jan. 20, 1983; 48 FR 4285, Jan. 31, 1983, as amended at 57 FR 2034, Jan. 17, 1992; 60 FR 20225, Apr. 25, 1995; 62 FR 53188, Oct. 10, 1997; 65 FR 54667, Sept. 8, 2000]

§ 1.64 Person making oath or declaration.

(a) The oath or declaration (§ 1.63), including any supplemental oath or declaration (§ 1.67), must be made by all of the actual inventors except as provided for in §§ 1.42, 1.43, 1.47, or § 1.67.

(b) If the person making the oath or declaration or any supplemental oath or declaration is not the inventor (§§ 1.42, 1.43, 1.47, or § 1.67), the oath or declaration shall state the relationship of the person to the inventor, and, upon information and belief, the facts which the inventor is required to state. If the person signing the oath or declaration is the legal representative of a deceased inventor, the oath or declaration shall also state that the person is a legal representative and the citizenship, residence, and mailing address of the legal representative.

[65 FR 54667, Sept. 8, 2000]

§ 1.66 Officers authorized to administer oaths.

(a) The oath or affirmation may be made before any person within the United States authorized by law to administer oaths. An oath made in a foreign country may be made before any

diplomatic or consular officer of the United States authorized to administer oaths, or before any officer having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States, or by an apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States. The oath shall be attested in all cases in this and other countries, by the proper official seal of the officer before whom the oath or affirmation is made. Such oath or affirmation shall be valid as to execution if it complies with the laws of the State or country where made. When the person before whom the oath or affirmation is made in this country is not provided with a seal, his official character shall be established by competent evidence, as by a certificate from a clerk of a court of record or other proper officer having a seal.

(b) When the oath is taken before an officer in a country foreign to the United States, any accompanying application papers, except the drawings, must be attached together with the oath and a ribbon passed one or more times through all the sheets of the application, except the drawings, and the ends of said ribbon brought together under the seal before the latter is affixed and impressed, or each sheet must be impressed with the official seal of the officer before whom the oath is taken. If the papers as filed are not properly ribboned or each sheet impressed with the seal, the case will be accepted for examination, but before it is allowed, duplicate papers, prepared in compliance with the foregoing sentence, must be filed.

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

[47 FR 41275, Sept. 17, 1982]

§ 1.67 Supplemental oath or declaration.

(a) The Office may require, or inventors and applicants may submit, a supplemental oath or declaration meeting the requirements of § 1.63 or § 1.62 to correct any deficiencies or inaccuracies

present in the earlier filed oath or declaration.

(1) Deficiencies or inaccuracies relating to all the inventors or applicants (§§1.42, 1.43, or §1.47) may be corrected with a supplemental oath or declaration signed by all the inventors or applicants.

(2) Deficiencies or inaccuracies relating to fewer than all of the inventor(s) or applicant(s) (§§1.42, 1.43 or §1.47) may be corrected with a supplemental oath or declaration identifying the entire inventive entity but signed only by the inventor(s) or applicant(s) to whom the error or deficiency relates.

(3) Deficiencies or inaccuracies due to the failure to meet the requirements of §1.63(c) (*e.g.*, to correct the omission of a mailing address of an inventor) in an oath or declaration may be corrected with an application data sheet in accordance with §1.76.

(4) Submission of a supplemental oath or declaration or an application data sheet (§1.76), as opposed to who must sign the supplemental oath or declaration or an application data sheet, is governed by §1.33(a)(2) and paragraph (b) of this section.

(b) A supplemental oath or declaration meeting the requirements of §1.63 must be filed when a claim is presented for matter originally shown or described but not substantially embraced in the statement of invention or claims originally presented or when an oath or declaration submitted in accordance with §1.53(f) after the filing of the specification and any required drawings specifically and improperly refers to an amendment which includes new matter. No new matter may be introduced into a nonprovisional application after its filing date even if a supplemental oath or declaration is filed. In proper situations, the oath or declaration here required may be made on information and belief by an applicant other than the inventor.

(c) [Reserved]

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

[48 FR 2711, Jan. 20, 1983, as amended at 57 FR 2034, Jan. 17, 1992; 60 FR 20225, Apr. 25, 1995; 62 FR 53189, Oct. 10, 1997; 65 FR 54667, Sept. 8, 2000]

§ 1.68 Declaration in lieu of oath.

Any document to be filed in the Patent and Trademark Office and which is required by any law, rule, or other regulation to be under oath may be subscribed to by a written declaration. Such declaration may be used in lieu of the oath otherwise required, if, and only if, the declarant is on the same document, warned that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant must set forth in the body of the declaration that all statements made of the declarant's own knowledge are true and that all statements made on information and belief are believed to be true.

[49 FR 48452, Dec. 12, 1984]

§ 1.69 Foreign language oaths and declarations.

(a) Whenever an individual making an oath or declaration cannot understand English, the oath or declaration must be in a language that such individual can understand and shall state that such individual understands the content of any documents to which the oath or declaration relates.

(b) Unless the text of any oath or declaration in a language other than English is a form provided or approved by the Patent and Trademark Office, it must be accompanied by an English translation together with a statement that the translation is accurate, except that in the case of an oath or declaration filed under §1.63, the translation may be filed in the Office no later than two months from the date applicant is notified to file the translation.

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

[42 FR 5594, Jan. 28, 1977, as amended at 48 FR 2711, Jan. 20, 1983; 62 FR 53189, Oct. 10, 1997]

§ 1.70 [Reserved]

SPECIFICATION

AUTHORITY: Secs. 1.71 to 1.79 also issued under 35 U.S.C. 112.