

COMMONLY OWNED APPLICATIONS AND APPLICATIONS CONTAINING  
PATENTABLY INDISTINCT CLAIMS

<p><b>§ 1.78(f)(1) – Applicant must identify other pending or patented application(s) if the application:</b></p>	<p><b>§ 1.78(f)(2) – a rebuttable presumption shall exist that the application contains at least one claim that is not patentably distinct from at least one of the claims in the other applications if the application:</b></p>	<p><b>§ 1.78(f)(3) – the Office may require elimination of the patentably indistinct claims from all but one of the applications in the absence of good and sufficient reason for there being 2 or more applications containing patentably indistinct claims, if the application:</b></p>	<p><b>§ 1.75(b)(4) – The Office will treat each application as having the total of all of the claims for purposes of determining whether each application exceeds 5/25 claim threshold if the application:</b></p>
<p><b>Conditions under 37 CFR 1.78(f) and 1.75(b)(4):</b></p>			
<p>Has a filing date that is <b>the same as or within 2 months</b> of the filing date of one or more other pending or patented nonprovisional applications, taking into account any filing date for which a benefit is sought under title 35, United States Code;</p>	<p>Has <b>the same filing date</b> as the filing date of one or more other pending or patented nonprovisional applications, taking into account any filing date for which a benefit is sought under title 35, United States Code;</p>	<p>Contains <b>at least one claim that is patentably indistinct</b> from at least one claim in one or more other nonprovisional applications or patents; <b>and</b></p>	<p>Contains <b>at least one claim that is patentably indistinct</b> from at least one claim in one or more other pending or patented applications; <b>and</b></p>
<p>Names at least <b>one inventor in common</b> with the one or more other applications; <b>and</b></p>	<p>Names at least <b>one inventor in common</b> with the one or more other applications;</p>		
<p>Is <b>owned by the same person</b>, or subject to an obligation of assignment to the same person, as the one or more other applications.</p>	<p>Is <b>owned by the same person</b>, or subject to an obligation of assignment to the same person, as the one or more other applications; <b>and</b></p>	<p>Is <b>owned by the same person</b>, or subject to an obligation of assignment to the same person.</p>	<p>Is <b>owned by the same person</b>, or subject to an obligation of assignment to the same person, as the one or more other applications.</p>
	<p><b>Contains substantial overlapping disclosure*</b> as the one or more other pending or patented applications.</p>		

\*Substantial overlapping disclosure exists if the other pending or patented nonprovisional application has written description support under 112/1, for at least one claim in the nonprovisional application.

<b>Timeliness Requirements under 37 CFR 1.78(f)(1) and 1.78(f)(2)</b>	
<b>§ 1.78(f)(1) – the identification of other pending or patented application(s) must be submitted within the later of:</b>	<b>§ 1.78(f)(2) – applicant must submit a rebuttal or a terminal disclaimer (with an explanation, if required) within the later of:</b>
<b>Four months from the actual filing date</b> in a nonprovisional application filed under 35 U.S.C. 111(a);	<b>Four months from the actual filing date</b> in a nonprovisional application filed under 35 U.S.C. 111(a);
<b>Four months</b> from the date on which the <b>national stage</b> commenced under 35 U.S.C. 371(b) or (f) in a nonprovisional application entering the national stage from an international application under 35 U.S.C. 371; or	<b>Four months</b> from the date on which the <b>national stage</b> commenced under 35 U.S.C. 371(b) or (f) in a nonprovisional application entering the national stage from an international application under 35 U.S.C. 371;
<b>Two months</b> from the mailing date of the initial filing receipt in such other nonprovisional application.	The date on which a claim that is patentably indistinct from at least one of the claims in the one or more other pending or patented nonprovisional applications is presented; or
	<b>Two months</b> from the mailing date of the initial filing receipt in the one or more other pending or patented nonprovisional applications.