

## **Instructions for Form AIA/02**

### **Substitute Statement in Lieu of an Oath or Declaration for Utility or Design Patent Application (35 U.S.C. 115(d) and 37 CFR 1.64)**

This substitute statement form may be submitted only where the inventor for whom it is being submitted is deceased, legally incapacitated, cannot be found or reached after diligent effort, or has refused to execute the oath or declaration. The party who is signing the substitute statement must be an applicant under 37 CFR 1.43, 1.45, or 1.46.

These instructions track the various boxes and information items that must be supplied to complete the form.

---

**Title of Invention:** Print or type the title of the invention as identified on the first page of your patent application specification.

**This statement is directed to:** For the two check boxes, check only one box. Check the first box if the substitute statement is being submitted with the patent application at the time of filing or on the same day. Check the second box if the substitute statement is being submitted after the patent application has already been filed, and print or type the application number on the first line and the application filing date on the second line. Note: When filing the substitute statement after the application has been filed, the application number and filing date must be inserted before the substitute statement is signed.

**Legal Name of inventor to whom this substitute statement applies:**

- **Given Name:** Print or type the legal name (*e.g.*, Given Name (first and middle (if any)) and Family Name or Surname) of the inventor to whom this substitute statement applies.
- **Residence (except for a deceased or legally incapacitated inventor):** Print or type the city, state, and country (for a U.S. resident), or the city and foreign country (for a non-U.S. resident), where the inventor to whom this substitute statement applies resides.
- **Mailing address (except for a deceased or legally incapacitated inventor):** Print or type the address where the inventor to whom this substitute statement applies customarily receives mail (*e.g.*, home address, business address, post office box).

**Relationship to the inventor to whom this substitute statement applies:**

For the five check boxes, check only one box.

- **Legal Representative (for deceased or legally incapacitated inventor only):**  
Check this box if the legal representative (*e.g.*, executor, administrator, heir) is signing the substitute statement for a deceased or legally incapacitated inventor. The legal representative must be an applicant, and should be identified as an applicant in an application data sheet (Form AIA/14).
- **Assignee:** Check this box if the assignee who was named as the applicant in an application data sheet (Form AIA/14) is signing the substitute statement on behalf of an inventor who is deceased, legally incapacitated, cannot be found or reached after diligent effort, or has refused to execute the oath or declaration. An assignee is a party who has an actual assignment document in which the owner assigned to the party executing the substitute statement all or part of its right, title, and interest in the patent application.
- **Person to whom the inventor is under an obligation to assign:** Check this box if the obligated assignee who was named as the applicant in an application data sheet (PTO Form AIA/14) is signing the substitute statement on behalf of an inventor who is deceased, legally incapacitated, cannot be found or reached after diligent effort, or has refused to execute the oath or declaration. An obligated assignee is a party to whom the owner is under an obligation to assign (*e.g.*, such as in an employment agreement) all or part of its right, title, and interest in the patent application.
- **Person who otherwise shows a sufficient proprietary interest in the matter:**  
Check this box if a person who otherwise shows a sufficient proprietary interest in the matter who was named as the applicant in an application data sheet (PTO Form AIA/14) is signing the substitute statement on behalf of an inventor who is deceased, legally incapacitated, cannot be found or reached after diligent effort, or has refused to execute the oath or declaration. A person who otherwise shows a sufficient proprietary interest must file a petition under 37 CFR 1.46 to be recognized as the applicant. Sufficient proprietary interest may be demonstrated by an appropriate legal memorandum as discussed in the Manual of Patent Examining Procedure (MPEP), section 409.03(f).
- **Joint Inventor:** Check this box if a joint inventor is signing the substitute statement on behalf of an inventor who cannot be found or reached after diligent effort, or has refused to execute an oath or declaration. Note: All of the inventors who are signing oaths or declarations must sign a substitute statement on behalf of the inventor who

cannot be found or reached or has refused. A joint inventor may not sign a substitute statement on behalf of a deceased or legally incapacitated inventor. The legal representative would need to sign the substitute statement on behalf of a deceased or legally incapacitated inventor, unless an assignee, obligated assignee, or party who otherwise shows sufficient proprietary interest is signing the substitute statement.

**Circumstances permitting execution of this substitute statement:** For the four check boxes, check only one box. This section identifies the permitted basis for the substitute statement, namely, that the inventor is deceased, is legally incapacitated, cannot be found or reached after diligent effort, or has refused to execute the oath or declaration.

**If there are joint inventors, please check the appropriate box:** For the two check boxes, check only one box. Check the first box if an application data sheet (ADS) (Form AIA/14) naming the entire inventive entity has been or is currently being submitted. Check the second box if an application data sheet (ADS) (Form AIA/14) has not been submitted, and the Substitute Statement Supplemental Sheet (Form AIA/11) naming the entire inventive entity and providing inventor information is attached.

**Person Executing This Substitute Statement:**

- **Name:** Print or type the legal name (*e.g.*, Given Name (first and middle (if any)) and Family Name or Surname) of the person signing the substitute statement.
- **Date (Optional):** Print or type the date that the person identified on the Name line signs the substitute statement. The person signing the substitute statement is not required to date the statement. Hence, the date is indicated as “optional.” However, the Office recommends providing a date.
- **Signature:** The person identified on the Name line should sign the substitute statement form. The substitute statement may be signed with a handwritten signature in dark ink (37 CFR 1.4(d)(1)) or with an “S-signature” (a typed signature between forward slashes, 37 CFR 1.4(d)(2)).
- **Residence:** Print or type the city, state, and country (for a U.S. resident), or the city and foreign country (for a non-U.S. resident), of the person who is signing the substitute statement.
- **Mailing Address:** Print or type the address where the person who is signing the substitute statement customarily receives mail (*e.g.*, home address, business address, post office box)

Use a new Form AIA/02 for each additional inventor who is deceased, legally incapacitated, cannot be found or reached after diligent effort, or has refused to execute the oath or declaration.