

The last sentence is omitted for inclusion in the chapter relating to plant patents.

The clause relating to machines is omitted as unnecessary and the requirement for disclosing the best mode of carrying out the invention is stated as generally applicable to all types of invention (derived from Title 35, U.S.C., 1946 ed., §69, first defense).

The clause relating to the claim is made a separate paragraph to emphasize the distinction between the description and the claim or definition, and the language is modified.

A new paragraph relating to functional claims is added.

AMENDMENTS

2011—Pub. L. 112-29 designated first to sixth pars. as subsecs. (a) to (f), respectively, inserted headings, in subsec. (a), substituted “or joint inventor of carrying out the invention” for “of carrying out his invention”, in subsec. (b), substituted “inventor or a joint inventor regards as the invention” for “applicant regards as his invention”, and, in subsec. (d), substituted “Subject to subsection (e),” for “Subject to the following paragraph,”.

1975—Pub. L. 94-131 substituted provision authorizing the writing of claims, if the nature of the case admits, in dependent or multiple dependent form for prior provision for writing claims in dependent form, required claims in dependent form to contain a reference to a claim previously set forth and then specify a further limitation of the subject matter claimed, substituted text respecting construction of a claim in dependent form so as to incorporate by reference all the limitations of the claim to which it refers for prior text for construction of a dependent claim to include all the limitations of the claim incorporated by reference into the dependent claim, and inserted paragraph respecting certain requirements for claims in multiple dependent form.

1965—Pub. L. 89-83 permitted a claim to be written in independent or dependent form, and if in dependent form, required it to be construed to include all the limitations of the claim incorporated by reference into the dependent claim.

EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-29 effective upon the expiration of the 1-year period beginning on Sept. 16, 2011, and applicable to any patent application that is filed on or after that effective date, see section 4(e) of Pub. L. 112-29, set out as a note under section 111 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-131 effective Jan. 24, 1978, and applicable on and after that date to patent applications filed in the United States and to international applications, where applicable, see section 11 of Pub. L. 94-131, set out as an Effective Date note under section 351 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89-83 effective three months after July 24, 1965, see section 7(a) of Pub. L. 89-83, set out as a note under section 41 of this title.

§ 113. Drawings

The applicant shall furnish a drawing where necessary for the understanding of the subject matter sought to be patented. When the nature of such subject matter admits of illustration by a drawing and the applicant has not furnished such a drawing, the Director may require its submission within a time period of not less than two months from the sending of a notice thereof. Drawings submitted after the filing date of the application may not be used (i) to overcome

any insufficiency of the specification due to lack of an enabling disclosure or otherwise inadequate disclosure therein, or (ii) to supplement the original disclosure thereof for the purpose of interpretation of the scope of any claim.

(July 19, 1952, ch. 950, 66 Stat. 799; Pub. L. 94-131, §8, Nov. 14, 1975, 89 Stat. 691; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §34, part (R.S. 4889, amended Mar. 3, 1915, ch. 94, §2, 38 Stat. 958).

The requirement for signature in the corresponding section of existing statute is omitted; regulations of the Patent Office can take care of any substitute. A redundant clause is omitted.

AMENDMENTS

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner”.

1975—Pub. L. 94-131 substituted provisions respecting drawings requiring necessary-for-understanding drawings and submission of drawings within prescribed time period and limiting use of drawings submitted after filing date of application for prior provision requiring the applicant to furnish a drawing when the nature of the case admitted it.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-131 effective Jan. 24, 1978, and applicable on and after that date to patent applications filed in the United States and to international applications, where applicable, see section 11 of Pub. L. 94-131, set out as an Effective Date note under section 351 of this title.

§ 114. Models, specimens

The Director may require the applicant to furnish a model of convenient size to exhibit advantageously the several parts of his invention.

When the invention relates to a composition of matter, the Director may require the applicant to furnish specimens or ingredients for the purpose of inspection or experiment.

(July 19, 1952, ch. 950, 66 Stat. 799; Pub. L. 106-113, div. B, §1000(a)(9) [title IV, §4732(a)(10)(A)], Nov. 29, 1999, 113 Stat. 1536, 1501A-582; Pub. L. 107-273, div. C, title III, §13206(b)(1)(B), Nov. 2, 2002, 116 Stat. 1906.)

HISTORICAL AND REVISION NOTES

Based on Title 35, U.S.C., 1946 ed., §34, part (R.S. 4890 and 4891).

The change in language in the second paragraph broadens the requirement for specimens.

AMENDMENTS

2002—Pub. L. 107-273 made technical correction to directory language of Pub. L. 106-113. See 1999 Amendment note below.

1999—Pub. L. 106-113, as amended by Pub. L. 107-273, substituted “Director” for “Commissioner” in two places.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective 4 months after Nov. 29, 1999, see section 1000(a)(9) [title IV, §4731] of Pub. L. 106-113, set out as a note under section 1 of this title.

§ 115. Inventor's oath or declaration

(a) **NAMING THE INVENTOR; INVENTOR'S OATH OR DECLARATION.**—An application for patent that is filed under section 111(a) or commences the national stage under section 371 shall include, or be amended to include, the name of the inventor for any invention claimed in the application. Except as otherwise provided in this section, each individual who is the inventor or a joint inventor of a claimed invention in an application for patent shall execute an oath or declaration in connection with the application.

(b) **REQUIRED STATEMENTS.**—An oath or declaration under subsection (a) shall contain statements that—

(1) the application was made or was authorized to be made by the affiant or declarant; and

(2) such individual believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application.

(c) **ADDITIONAL REQUIREMENTS.**—The Director may specify additional information relating to the inventor and the invention that is required to be included in an oath or declaration under subsection (a).

(d) **SUBSTITUTE STATEMENT.**—

(1) **IN GENERAL.**—In lieu of executing an oath or declaration under subsection (a), the applicant for patent may provide a substitute statement under the circumstances described in paragraph (2) and such additional circumstances that the Director may specify by regulation.

(2) **PERMITTED CIRCUMSTANCES.**—A substitute statement under paragraph (1) is permitted with respect to any individual who—

- (A) is unable to file the oath or declaration under subsection (a) because the individual—
- (i) is deceased;
 - (ii) is under legal incapacity; or
 - (iii) cannot be found or reached after diligent effort; or

(B) is under an obligation to assign the invention but has refused to make the oath or declaration required under subsection (a).

(3) **CONTENTS.**—A substitute statement under this subsection shall—

(A) identify the individual with respect to whom the statement applies;

(B) set forth the circumstances representing the permitted basis for the filing of the substitute statement in lieu of the oath or declaration under subsection (a); and

(C) contain any additional information, including any showing, required by the Director.

(e) **MAKING REQUIRED STATEMENTS IN ASSIGNMENT OF RECORD.**—An individual who is under an obligation of assignment of an application for patent may include the required statements under subsections (b) and (c) in the assignment

executed by the individual, in lieu of filing such statements separately.

(f) **TIME FOR FILING.**—The applicant for patent shall provide each required oath or declaration under subsection (a), substitute statement under subsection (d), or recorded assignment meeting the requirements of subsection (e) no later than the date on which the issue fee for the patent is paid.

(g) **EARLIER-FILED APPLICATION CONTAINING REQUIRED STATEMENTS OR SUBSTITUTE STATEMENT.**—

(1) **EXCEPTION.**—The requirements under this section shall not apply to an individual with respect to an application for patent in which the individual is named as the inventor or a joint inventor and that claims the benefit under section 120, 121, 365(c), or 386(c) of the filing of an earlier-filed application, if—

(A) an oath or declaration meeting the requirements of subsection (a) was executed by the individual and was filed in connection with the earlier-filed application;

(B) a substitute statement meeting the requirements of subsection (d) was filed in connection with the earlier filed application with respect to the individual; or

(C) an assignment meeting the requirements of subsection (e) was executed with respect to the earlier-filed application by the individual and was recorded in connection with the earlier-filed application.

(2) **COPIES OF OATHS, DECLARATIONS, STATEMENTS, OR ASSIGNMENTS.**—Notwithstanding paragraph (1), the Director may require that a copy of the executed oath or declaration, the substitute statement, or the assignment filed in connection with the earlier-filed application be included in the later-filed application.

(h) **SUPPLEMENTAL AND CORRECTED STATEMENTS; FILING ADDITIONAL STATEMENTS.**—

(1) **IN GENERAL.**—Any person making a statement required under this section may withdraw, replace, or otherwise correct the statement at any time. If a change is made in the naming of the inventor requiring the filing of 1 or more additional statements under this section, the Director shall establish regulations under which such additional statements may be filed.

(2) **SUPPLEMENTAL STATEMENTS NOT REQUIRED.**—If an individual has executed an oath or declaration meeting the requirements of subsection (a) or an assignment meeting the requirements of subsection (e) with respect to an application for patent, the Director may not thereafter require that individual to make any additional oath, declaration, or other statement equivalent to those required by this section in connection with the application for patent or any patent issuing thereon.

(3) **SAVINGS CLAUSE.**—A patent shall not be invalid or unenforceable based upon the failure to comply with a requirement under this section if the failure is remedied as provided under paragraph (1).

(i) **ACKNOWLEDGMENT OF PENALTIES.**—Any declaration or statement filed pursuant to this section shall contain an acknowledgment that any willful false statement made in such declaration