

Chapter 200: Types, Cross-Noting, and Status of Application

201 Types of Applications

201.01 National Applications

I. APPLICATIONS FILED UNDER 35 U.S.C. 111

II. INTERNATIONAL APPLICATION DESIGNATING THE UNITED STATES

201.02 General Terms Used to Describe Applications

201.04 Provisional Application

I. APPLICATION FILED ON OR AFTER SEPTEMBER 16, 2012

II. PROVISIONAL APPLICATION FILED BEFORE SEPTEMBER 16, 2012

III. PROVISIONAL APPLICATION - IN GENERAL

201.05 Reissue Application

201.06 Divisional Application

201.06(a) Former 37 CFR 1.60 Divisional Continuation Procedure

201.06(b) Former 37 CFR 1.62 File Wrapper Continuing Procedure

201.06(c) 37 CFR 1.53(b) and 37 CFR 1.63(d) Divisional-Continuation Procedure

I. IN GENERAL

II. OATH/DECLARATION

III. SPECIFICATION AND DRAWINGS

IV. INCORPORATION BY REFERENCE

A. Application NOT Entitled to a Filing Date

B. Application Entitled to a Filing Date

V. INVENTORSHIP

A. Applications Filed On or After September 16, 2012

B. Applications Filed Prior to September 16, 2012

- VI. SUBSTITUTE STATEMENT AND RULE 47 ISSUES
- VII. CHANGE OF ATTORNEY/CORRESPONDENCE ADDRESS
- VIII. SMALL ENTITY OR MICRO ENTITY STATUS
- IX. COPIES OF AFFIDAVITS
- X. EXTENSIONS OF TIME
- XI. ABANDONMENT OF THE PRIOR NONPROVISIONAL APPLICATION
- XII. EXAMINATION

201.06(d) 37 CFR 1.53(d) Continued Prosecution Application (CPA) Practice

I. CPA PRACTICE HAS BEEN ELIMINATED AS TO UTILITY AND PLANT APPLICATIONS

- A. Applications Filed on or After June 8, 1995
- B. Applications Filed Before June 8, 1995

II. FILING AND INITIAL PROCESSING OF CPAs FOR DESIGN APPLICATIONS

- A. In General
- B. Conditions for Filing a CPA
- C. Initial Processing
- D. Incorrect Patent Application Number Identified
- E. Signature Requirement
- F. Filing Date
- G. Filing Fee
- H. Small Entity or Micro Entity Status
- I. Extensions of Time
- J. Notice of CPA Filing
- K. Inventorship

III. EXAMINATION OF CPAs

- A. Benefit of Earlier Filing Date
- B. Terminal Disclaimer

C. Prior Election

D. Information Disclosure Statements and Preliminary Amendments

E. Copies of Affidavits

IV. PUBLIC ACCESS TO CPAs

A. Waiver of Confidentiality

B. Certified Copy

V. FORMS

201.07 Continuation Application

201.08 Continuation-in-Part Application

202 Cross-Noting

I. NOTATION IN FILE HISTORY REGARDING PRIOR U.S. APPLICATIONS,
INCLUDING PROVISIONAL APPLICATIONS

II. NOTATION IN FILE HISTORY REGARDING FOREIGN PRIORITY APPLICATION

202.04 In Oath or Declaration - Application Filed Before September 16, 2012

203 Status of Applications

203.01 New

203.02 Rejected

203.03 Amended

203.04 Allowed or in Issue

203.05 Abandoned

203.06 Incomplete

203.08 Status Inquiries

I. IN GENERAL

II. NEW APPLICATION

III. AMENDED APPLICATIONS

203.08(a) Congressional and Other Official Inquiries

210 Priority to, or the Benefit of, the Filing Date of a Prior-Filed Application

I. REQUIREMENTS OF 37 CFR 1.78 (CLAIMING THE BENEFIT OF AN EARLIER DOMESTIC APPLICATION)

II. REQUIREMENTS OF 37 CFR 1.55 (CLAIMING PRIORITY TO AN EARLIER FOREIGN APPLICATION)

III. REQUIREMENT FOR A STATEMENT UNDER 37 CFR 1.55 OR 1.78 FOR FIRST INVENTOR TO FILE TRANSITION APPLICATIONS

A. Transition Applications

B. Application Data Sheet and Filing Receipt

211 Claiming the Benefit of an Earlier Filing Date Under 35 U.S.C. 120 and 119(e)

211.01 Requirements Related to the Prior-Filed Application

I. THE PRIOR-FILED APPLICATION MUST BE ENTITLED TO A FILING DATE

II. SAME INVENTOR OR A COMMON JOINT INVENTOR

III. TRANSITION APPLICATION STATEMENT

IV. ADDITIONAL REQUIREMENTS

211.01(a) Claiming the Benefit of a Provisional Application

211.01(b) Claiming the Benefit of a Nonprovisional Application

I. COPENDENCY

II. BENEFIT CLAIMS TO MULTIPLE PRIOR APPLICATIONS

211.01(c) Claiming the Benefit of a International Application Designating the United States

211.02 Reference to Prior Application(s)

I. APPLICATION DATA SHEET

II. REFERENCE TO PRIOR NONPROVISIONAL APPLICATIONS

III. REFERENCE TO PRIOR PROVISIONAL APPLICATIONS

211.02(a) Correcting or Adding a Benefit Claim After Filing

I. CORRECTED FILING RECEIPT

II. ADDING BENEFIT CLAIMS

III. DELETING BENEFIT CLAIMS

211.03 Time Period for Making a Claim for Benefit Under 37 CFR 1.78

211.04 Delayed Benefit Claims

211.05 Sufficiency of Disclosure in Prior-Filed Application

I. DISCLOSURE REQUIREMENT

A. Claiming the Benefit of Provisional Applications

B. Claiming the Benefit of Nonprovisional Applications

213 Right of Priority of Foreign Application

213.01 Recognized Countries and Regional Patent Offices of Foreign Filing

I. LIST OF RECOGNIZED COUNTRIES

II. RIGHT OF PRIORITY BASED UPON AN INTERNATIONAL APPLICATION FILED UNDER THE PATENT COOPERATION TREATY

III. RIGHT OF PRIORITY (35 U.S.C. 119(a)-(d) AND 365(a)-(b)) BASED ON A FOREIGN APPLICATION FILED UNDER A BILATERAL OR MULTILATERAL TREATY

213.02 Formal Requirements Relating to Foreign Priority Application

I. IDENTIFICATION OF FOREIGN APPLICATION

II. THE SAME INVENTOR OR AT LEAST ONE COMMON JOINT INVENTOR

III. TRANSITION APPLICATION STATEMENT

213.03 Time for Filing U.S. Nonprovisional Application

I. FILING OF PAPERS DURING UNSCHEDULED CLOSINGS OF THE U.S. PATENT AND TRADEMARK OFFICE

II. FIRST FOREIGN APPLICATION

213.04 Requirement to File Priority Claim and Certified Copy During Pendency of Application

213.05 Right of Priority Based Upon an Application for an Inventor's Certificate

213.06 Claiming Priority and Filing a Certified Copy in a National Stage Application (35 U.S.C. 371)

214 Formal Requirements of Claim for Foreign Priority

214.01 Time for Filing Priority Claim

214.02 Unintentionally Delayed Priority Claims

214.03 Office Acknowledgement of Priority Claims

- I. UNTIMELY CLAIM FOR PRIORITY
- II. NO IRREGULARITIES AND PRIORITY CLAIM TIMELY
- III. FOREIGN APPLICATION FILED MORE THAN A YEAR BEFORE EARLIEST EFFECTIVE U.S. FILING
- IV. SOME FOREIGN APPLICATIONS FILED MORE THAN A YEAR BEFORE U.S. FILING
- V. APPLICATION IN ISSUE

214.04 Proper Identification of Priority Application in Foreign Priority Claim

215 Certified Copy of Foreign Application

- I. REQUIREMENT FOR CERTIFIED COPY
- II. MEANING OF “CERTIFIED COPY”
- III. CERTIFIED COPY FILED IN PARENT OR RELATED APPLICATION
- IV. FOREIGN PRIORITY DOCUMENT INCONSISTENT WITH A TIMELY FOREIGN PRIORITY CLAIM OR NO CLAIM FOR FOREIGN PRIORITY
- V. APPLICATION IN ISSUE
- VI. NO CERTIFIED COPY

215.01 Electronic Priority Document Exchange

215.02 Time For Filing Certified Copy – Application Filed On or After March 16, 2013

215.02(a) Timeliness Requirement – Met By Priority Document Exchange

215.02(b) Timeliness Requirement – Met By Interim Copy of Foreign Application

- I. TRUE COPY OF FOREIGN APPLICATION AS FILED
- II. FILING INTERIM COPY VIA EFS-WEB

215.03 Time For Filing Certified Copy – Application Filed Before March 16, 2013

216 Entitlement to Priority

216.01 Using Certificate of Correction to Perfect Claim for Priority Under 35 U.S.C. 119(a)-(d) or (f)

217 Incorporation by Reference Under 37 CFR 1.57(a)

I. IN GENERAL

II. CONDITIONS AND REQUIREMENTS OF 37 CFR 1.57(a)

- A. Application Filed On or After September 21, 2004
- B. Material Must Be Inadvertently Omitted
- C. Claim Under 37 CFR 1.55 or 1.78 Present on Filing Date
- D. Omitted Material Completely Contained in Prior-filed Application
- E. Amendment to Add Inadvertently Omitted Material
- F. Petition Requirement
- G. International Applications

III. EXAMPLES

IV. FORM PARAGRAPHS