

(3) A nonprovisional application other than for a design patent may claim an invention disclosed in one or more prior filed copending provisional applications. Since a provisional application can be pending for no more than twelve months, the last day of pendency may occur on a Saturday, Sunday, or Federal holiday within the District of Columbia which for copendency would require the nonprovisional application to be filed on or prior to the Saturday, Sunday, or Federal holiday. In order for a nonprovisional application to claim the benefit of one or more prior filed copending provisional applications, each prior provisional application must name as an inventor at least one inventor named in the later filed nonprovisional application and disclose the named inventor's invention claimed in at least one claim of the later filed nonprovisional application in the manner provided by the first paragraph of 35 U.S.C. 112. In addition, each prior provisional application must be:

- (i) Complete as set forth in § 1.51(c); or
- (ii) Entitled to a filing date as set forth in § 1.53(c) and include the basic filing fee set forth in § 1.16(k).

(4) Any nonprovisional application claiming the benefit of one or more prior filed copending provisional applications must contain or be amended to contain in the first sentence of the specification following the title a reference to each such prior provisional application, identifying it as a provisional application, and including the provisional application number (consisting of series code and serial number).

(b) Where two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application.

(c) Where an application or a patent under reexamination and at least one other application naming different inventors are owned by the same party and contain conflicting claims, and there is no statement of record indi-

cating that the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, the assignee may be called upon to state whether the claimed inventions were commonly owned or subject to an obligation of assignment to the same person at the time the later invention was made, and if not, indicate which named inventor is the prior inventor.

(Pub. L. 94-131, 89 Stat. 685; 35 U.S.C. 6, Pub. L. 97-247)

[36 FR 7312, Apr. 17, 1971, as amended at 50 FR 9380, Mar. 7, 1985; 50 FR 11366, Mar. 21, 1985; 58 FR 54509, Oct. 22, 1993; 60 FR 20225, Apr. 25, 1995; 61 FR 42804, Aug. 19, 1996; 62 FR 53189, Oct. 10, 1997]

#### **§ 1.79 Reservation clauses not permitted.**

A reservation for a future application of subject matter disclosed but not claimed in a pending application will not be permitted in the pending application, but an application disclosing unclaimed subject matter may contain a reference to a later filed application of the same applicant or owned by a common assignee disclosing and claiming that subject matter.

#### THE DRAWINGS

AUTHORITY: Secs. 1.81 to 1.88 also issued under 35 U.S.C. 113.

#### **§ 1.81 Drawings required in patent application.**

(a) The applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented; this drawing, or a high quality copy thereof, must be filed with the application. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.

(b) Drawings may include illustrations which facilitate an understanding of the invention (for example, flow sheets in cases of processes, and diagrammatic views).