

USPTO Explains the America Invents Act

Webinar, Thursday, September 6, 2012

Presented free of charge by Oppedahl Patent Law Firm LLC

www.oppedahl.com

Contents:

- uniform certificate of attendance (for CLE purposes)
- notice of CLE accreditation
- brochure for this program
- presentation slides for this program
- USPTO forms
 - Form PTO/AIA/01
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 - Form PTO/AIA/10
 - Form PTO/AIA/11
- PCT forms
 - Declaration of inventorship (PCT Rule 4.17(iv)) (for use before September 16, 2012)
 - Form PCT/RO/101 (for use on or after September 16, 2012)
- brochure for downloadable video recording of OPLF webinar about the new oath-and-declaration rules
- brochure for *Guide for Preparation of Patent Drawings*

UNIFORM CERTIFICATE OF ATTENDANCE FOR CLE

To be completed by provider

Provider: Oppedahl Patent Law Firm, LLC

Title of Activity: USPTO explains the America Invents Act

Date of Activity: September 6, 2012

Location: Webinar

Activity Number: Colorado 732181 California 15406

Total eligible CLE Credit Hours Colorado (50 – minute hour): 2

Total eligible CLE Credit Hours California (60 – minute hour): 2

To be completed by the Attorney after Participating in the Above-Named Activity:

By signing below, I certify that I participated in the activity described above and am entitled to claim the following CLE credit hours:

Total hours: _____

(you may not claim credit for the following sub-field unless the provider is granting credit in these areas above)

Legal Ethics: _____

Print your name: _____

Your State Bar Number: _____

Signature: _____

Acknowledged by:

/Carl Oppedahl/
Sponsor / Representative

opl - amer

STATE OF COLORADO
SUPREME COURT
BOARD OF CONTINUING LEGAL & JUDICIAL EDUCATION
1560 Broadway #1820
Denver, CO 80202
(303) 866-6500

NOTICE OF ACCREDITATION

The Board has accredited the continuing legal education seminar(s) described below under Rule 260, C.R.C.P. Colorado attorneys and judges who attend this entire seminar, i.e., who attend all accredited, substantive educational sessions, may claim the CLE Credits indicated below. Any Ethics Credits indicated are NOT IN ADDITION TO BUT ARE INCLUDED IN the General Credits awarded.

This accreditation is awarded on the condition that the seminar's sponsor permits the Board's staff to attend the program and provides the Board, upon its request, with a list of Colorado attorneys and judges in attendance.

COLORADO ATTORNEYS AND JUDGES ARE INDIVIDUALLY RESPONSIBLE FOR REPORTING ANY CLE CREDITS EARNED ON A FORM AFFIDAVIT PROVIDED TO THEM BY THE BOARD.

Date Reviewed: 8/27/2012

NAME OF SEMINAR	LOCATION	DATE	SPONSOR	GENERAL CREDITS	ETHICS CREDIT
AMERICAN INVENTS ACT	VARIOUS USA	9/6/2012	OPLF	2	

Seminars accredited at least 1 month in advance will appear on the Board's web site. Please remember that all seminars held IN Colorado MUST be accredited at least 15 days in advance or may not be accredited at all.



Thank you for your cooperation.

COURSE ID: 732181

USPTO explains the America Invents Act

About the webinar. We all know that the America Invents Act ("AIA") was signed into law in September of 2011. We all know that USPTO has promulgated thousands of pages of new rules to implement the AIA. Some of the new rules take effect as early as September 16, 2012.

In this webinar, you will hear, live and in person, from two people at the USPTO:

<p>Hiram Bernstein, Senior Legal Advisor, Office of Patent Legal Administration, US Patent and Trademark Office</p>	
<p>Sally Lane, Administrative Patent Judge, USPTO Patent Trial and Appeal Board (formerly the Board of Patent Appeals and Interferences)</p>	

These USPTO people will give an overview of the upcoming changes, and will respond to audience questions. Topics to be discussed include:

- oath or declaration of the inventors
- supplemental examination
- post-grant review proceedings
- *inter partes* review
- estoppel provisions arising out of *ex parte* reexams commenced after final decisions in other proceedings

The price is right! This webinar is free of charge. Tell all your friends about it. But enrollment is limited to one thousand attendees. Don't get left out by waiting too long to register for this webinar.

When? Thursday, September 6, 2012, 11:00 AM to 1:00 PM Mountain Time.

The program will be moderated by Carl Oppedahl, a partner in OPLF.

CLE accreditation?

CLE accreditation has been approved for [California](#) for 2 credits and for [Colorado](#) for 2 credits. In the short time between now and the webinar, it is unlikely that we will obtain accreditation in any additional states. We will provide a uniform certificate of attendance ("UCOA"). In the past we have sometimes heard from an attendee that he or she has been able to obtain CLE credit in his or her own state by submitting the UCOA to his or her own CLE authority. Please do not ask us to try to obtain CLE accreditation from other states.

In any event the way you will receive CLE credit, if at all, is by submitting the UCOA *yourself* to your state CLE agency.

Cost? The webinar is free of charge.

How to sign up? To register for this program, go to the [webinar registration page](#).

Format. This program is a webinar, meaning a seminar offered over the Web. It is anticipated that at some law firm and corporate locations, the presentation-slide content of the webinar will be projected upon a screen in a conference room. Other attendees will view the presentation on their own computers.



Participants will be able to submit typed questions through the webinar system.

After the webinar has finished, participants will be requested to complete an online evaluation form. Written materials will be provided (as a PDF file) about a day before the program.

Audio will be provided both through computer speakers and by means of dial-in telephone numbers. A user with a computer headset can use the headset to listen to the audio. Many attendees will find it convenient to receive the audio through their computer speakers, which is free of any per-minute charge. It will also be possible to dial in to a telephone conference bridge to receive the audio; this will be a toll call with regular per-minute long-distance telephone charges.

Cutoff time for registrations. Attendance is limited to one thousand attendees. The ability to register for the webinar will be turned off when one thousand attendees have registered, or two hours in advance of the stated starting time of the webinar, whichever is first.

Final Rules Implementing the America Invents Act

Oppedahl Patent Law Firm Webinar
September 6, 2012



Hiram Bernstein	Sally Lane
Senior Legal Advisor	Administrative Patent Judge
Office of Patent Legal Admin	Patent Trial and Appeal Board



Overview

- Inventor's Oath Declaration (Hiram)
- Preissuance Submission (Hiram)
- Supplemental Examination (Hiram)
- Administrative Trials (Sally)

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Inventor's Oath or Declaration



35 U.S.C. 115 and 118
Effective Date: September 16, 2012
Applicability: Applications filed on or after September 16, 2012

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Applicant Under 35 U.S.C. 118

- Permits an assignee, person to whom there is an obligation to assign, or person who otherwise shows sufficient proprietary interest in the matter to be the applicant
- Term “applicant” is no longer synonymous with “inventor”
- Each inventor must still execute an oath or declaration



Naming the Inventor Under 35 U.S.C. 115

- 35 U.S.C. 115 requires for each inventor:
 - Oath or declaration by the inventor;
 - Substitute statement with respect to the inventor; or
 - Assignment that contains the statements required for an oath or declaration by the inventor



Inventor’s Oath or Declaration: Required Statements

- Inventor must state in oath or declaration that:
 - Application was made or was authorized to be made by the person executing the oath or declaration; and
 - Person executing the oath or declaration believes himself or herself to be the original inventor or an original joint inventor of a claimed invention in the application



Inventor's Oath or Declaration: Eliminated Requirements

- No longer required for an oath or declaration to state:
 - Names of all inventors (if provided in an ADS);
 - Identification of an inventor's citizenship;
 - That the inventor believes himself or herself to be the "first" inventor; and
 - Foreign priority claims (must be provided in an ADS)

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Inventor's Oath or Declaration: Eliminated Requirements (cont.)

- No longer required for an oath/declaration to state that the person making the oath/declaration:
 - acknowledges the duty of disclosure, and
 - has reviewed and understands the contents of the application
- However, a person may not execute an oath or declaration unless the person:
 - is aware of the duty of disclosure, and
 - has reviewed and understands the contents of the application

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Substitute Statements

- Non-inventor applicant (e.g., assignee-applicant) may file a substitute statement if an inventor:
 - Is deceased;
 - Is legally incapacitated;
 - Cannot be found or reached after diligent effort; or
 - Refuses to execute an oath or declaration

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Substitute Statements: Contents

- Must contain the statements and information required for an oath or declaration;
- Identify the inventor with respect to whom the statement applies;
- Identify the person executing the substitute statement and the relationship to the non-signing inventor;
- Identify the permitted basis, i.e., whether the inventor is deceased, legally incapacitated, cannot be found after diligent effort or refuses to execute



Assignment Containing Statements

- Assignment may serve as an oath or declaration if the assignment as executed:
 - Includes the information and statements required for an oath or declaration; and
 - Copy of the assignment is recorded in the Office's assignment database



Timing of Filing

- Oath/declaration may be postponed until the application is otherwise in condition for allowance provided that a signed application data sheet has been submitted:
 - Identifying each inventor by his or her legal name; and
 - Providing a mailing address and residence for each inventor
- Oath/declaration must still be provided for a reissue application prior to examination



Inventor's Oath or Declaration: Proposed v. Final Rules

Aspect	Proposed	Final
Who may file an application for patent	Only the inventor	Inventor, assignee, or obligated assignee
Location of the entire inventive entity	Inventor's oath/declaration	Inventor's oath/declaration need not identify the entire inventive entity, if a signed ADS is filed that includes identification of each inventor
Timing to file inventor's oath or declaration	With application or shortly thereafter	Expiration of time period set forth in a Notice of Allowability expires, if a signed ADS is filed that includes identification of each inventor

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Polling Question 1

How can an applicant identify the inventor of a claimed invention to the Office:

- A) Inventor's Oath or Declaration
- B) Substitute Statement
- C) Assignment
- D) Application Data Sheet Only
- E) A, B, or C

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Preissuance Submission



35 U.S.C. 122(e)
Effective Date: September 16, 2012
Applicability: Pending or abandoned non-provisional utility, design, and plant applications filed before, on, or after September 16, 2012

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Preissuance Submission: Filing

- Any third party may submit printed publications of potential relevance to the examination of an application for consideration and inclusion in the record of the application
- Must be timely made in writing and include:
 - Concise description of asserted relevance of each document;
 - Fee prescribed by the Director; and
 - Statement of compliance with 35 U.S.C. 122(e)
- May be filed electronically via the Office's dedicated Web-based interface or in paper but not by facsimile
- No service on applicant required

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Preissuance Submission: Scope

- Submissions are limited to "printed publications"
 - U.S. patents and patent application publications
 - Foreign patents and published patent applications
 - Other printed publications
 - Non-patent documents, such as articles, Office actions, communications from foreign patent offices, etc. that qualify as publications
- Need not be prior art

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Preissuance Submission: Timing

- Must be made before the earlier of:
 - Date a notice of allowance is given or mailed;
- OR
- Later of:
 - 6 months after the date on which the application is first published by the Office; or
 - Date of first rejection of any claim by the examiner

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Preissuance Submission: Contents

- Document list (Form PTO/SB/429)
 - <http://www.uspto.gov/forms>
- Concise descriptions of relevance
 - Statement of facts explaining how the document is of potential relevance to the examination of the application
- Copies of documents, but not for U.S. patents and U.S. patent application publications
- Translations for any non-English language documents
- Statements (i) of compliance with statute and rules; and (ii) that the submitting party does not have a duty of disclosure for the application
- Fee (if necessary)

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Preissuance Submission: Fee

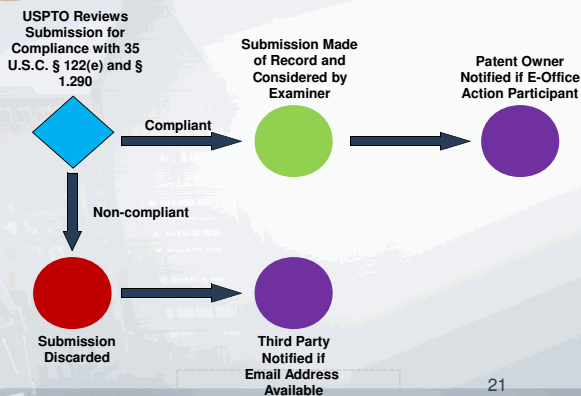
Service	Fee
Every 10 documents listed or fraction thereof	\$180 fee
First submission of 3 or fewer total documents submitted	No fee

- Must be accompanied by “first and only” statement
- More than one third party can take advantage of the fee exemption in a given application

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Preissuance Submission: Processing



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Preissuance Submission: Examiner Consideration

Third party submissions (documents and concise descriptions) will be considered in the same manner as documents cited on an IDS

- Copy of the document list, indicating which documents the examiner considered, will be provided to the applicant
- Considered documents will be printed on the patent
- Examiner's consideration does not equate to agreement with third-party petition
- Third party is not permitted to respond to an examiner's treatment of a submission



Proposed v. Final Rules for Preissuance Submissions

Aspect	Proposed	Final
Notification to applicant upon entry of a compliant third-party submission in an application file	No	Yes
Notification to a third party if the third-party's submission is deemed non-compliant	No	Yes
Third-party submissions permitted in reissue applications	Yes	No

Supplemental Examination



35 U.S.C. 257
Effective Date: September 16, 2012
Applicability: Patent enforceable on/after September 16, 2012



Supplemental Examination: Request

- Patent owner may request supplemental examination of a patent to consider, reconsider, or correct information believed to be relevant to the patent
- Request may address any condition for patentability, e.g., 35 U.S.C. 101, 102, 103, and 112, and double-patenting
- Information is not limited to patents and printed publications
- Third party may not file a request or participate

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Inequitable Conduct Immunization

- Information considered, reconsidered, or corrected during supplemental examination cannot be the basis for rendering a patent unenforceable, except that this immunity does not apply:
 - To allegations pled in a civil action or notice to the patentee before the date of the request for supplemental examination; and
 - Unless the supplemental examination and any resulting *ex parte* reexamination is completed before the civil action is brought

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Supplemental Examination: Filing

- May be filed electronically via the Office's dedicated Web-based interface or in paper but not by facsimile
- Identify the filing as a supplemental examination request
- <http://www.uspto.gov/forms>

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Supplemental Examination: Contents of Request

- Identification of the patent and of each claim of the patent for which supplemental examination is requested;
- List of the items of information requested to be considered, reconsidered, or corrected;
- Separate, detailed explanation of the relevance and manner of applying each item of information to each claim of the patent for which supplemental examination is requested; and
- Summary of the relevant portions of any submitted document, other than the request, that is over fifty pages in length
- Fees

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Preissuance Submission: Fee

Service	Fee
Filing fee (for processing and treating a request for supplemental examination) <small>Plus any applicable document size fees for processing and treating, in a supplemental examination proceeding, a non-patent document over 20 sheets in length</small>	\$ 5140
Reexamination fee (for ex parte reexamination ordered as a result of supplemental examination)	\$16,120
TOTAL	\$21,260
REFUND (if the Office decides not to order an ex parte reexamination proceeding)	\$16,120

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Supplemental Examination: Certificate

- If an SNQ is raised by one or more items of information in the request:
 - *ex parte* reexamination will be ordered
- If no SNQ is raised by any of the items of information in the request:
 - *ex parte* reexamination will be not be ordered; and
 - reexamination fee for supplemental examination will be refunded

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Supplemental Examination: Conclusion of Proceeding

- Supplemental examination proceeding will conclude with the electronic issuance of the supplemental examination certificate
- Certificate will indicate the result of the Office's determination whether any item of information filed with the request raises a substantial new question of patentability



Proposed v. Final Rules for Supplemental Examination

Aspect	Proposed	Final
Items of Information	10	12
Content requirements for request	Comparable to requirements for a request for ex parte reexamination	More detailed than requirements for a request for ex parte reexamination
Timing to file	At any time	At any time during the enforceability of the patent

Administrative Trials





AIA Trial Proceedings

Inter Partes Review
§§ 42.100 – 42.123

Post-Grant Review
§§ 42.200 – 42.224

Umbrella Trial Rules
§§ 42.1 – 42.80

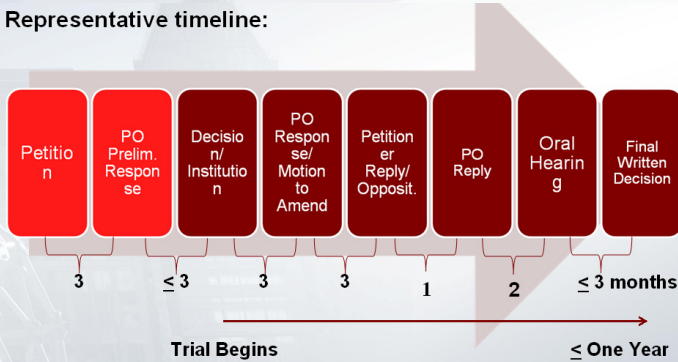
Covered Business
Method Patent Review
§§ 42.300 – 42.304

Derivation Proceeding
§§ 42.400 – 42.412



AIA Trial Proceedings

Representative timeline:





Major Differences between IPR, PGR, and CBM

IPR

All patents are eligible.

Petitioner has not filed an invalidity action and petition is filed no more than one year after service of infringement complaint for the patent.

Only §§ 102 and 103 grounds based on patents or printed publication are permitted.

PGR

Only FITF patents are eligible.

Petitioner has not filed an invalidity action.

Only §§ 101, 102, 103, and 112, except best mode, grounds are permitted.

CBM

Both FTI & FITF patents are eligible, but must be a covered business method patent.

Petitioner must be sued or charged w/ infringement.

Only §§ 101, 102, 103, and 112, except best mode, grounds are permitted.



Threshold Standards for Institution

IPR

Petition must demonstrate a **reasonable likelihood** that petitioner would prevail as to at least one of the claims challenged.

PGR/CBM

Petition must demonstrate that it is **more likely than not** that at least one of the claims challenged is unpatentable.

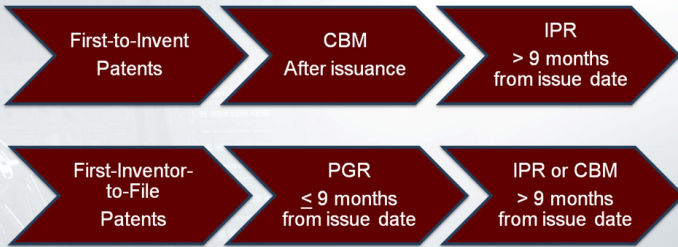
PGR/CBM: Greater than 50% chance

IPR: May encompass a 50/50 chance



Administrative Patent Trials

In general, a person who is not the patent owner may file an IPR/PGR/CBM petition in the following time periods:





Polling Question 2

The Umbrella Trial Rules apply to which of the following:

- A) *Inter Partes* Review
- B) Post-Grant Review
- C) Covered Business Method Patent Review
- D) Derivation Proceeding
- E) All of the above



Inter Partes Review

- All patents are eligible for an IPR. § 6(c)(2)(A) of AIA.
- A person who is not the patent owner and has not previously filed a civil action challenging the validity of a claim of the patent may file an IPR. 35 U.S.C. 315(a)(1); § 42.101.
- An IPR petitioner may request to cancel, as unpatentable, one or more claims of a patent only on a ground that could be raised under § 102 or 103 and only on the basis of prior art consisting of patents or printed publications. 35 U.S.C. 311(b); § 42.104(b)(2).
- An IPR petition cannot be filed until after the later of: 1) 9 months after the grant of a patent or issuance of a reissue of a patent; or 2) the date of termination of any post grant review of the patent. 35 U.S.C. 311(c); § 42.102(a).

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Inter Partes Review

- Petition must:
 - Be accompanied by a fee. 35 U.S.C. 312(a)(1); § 42.15 & 42.103.
 - Identify all real parties in interest. 35 U.S.C. 312(a)(2); § 42.8.
 - Identify all claims challenged and grounds on which the challenge to each claim is based. 35 U.S.C. 312(a)(3); § 42.104(b).
 - Provide a claim construction and show how the construed claim is unpatentable based on the grounds alleged. § 42.104(b).
 - Provide copies of evidence relied upon. 35 U.S.C. 312(a)(5); § 42.6(c).
 - Certify that the petitioner is not estopped from proceeding. § 42.104(a).

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Inter Partes Review

Patent owner preliminary response

- A patent owner may file a preliminary response to the petition to provide reasons why no IPR should be instituted. 35 U.S.C. 313; § 42.107(a).
- Preliminary response is due **3 months** from petition docketing date. § 42.107(b).
- **Patent owners may provide testimonial evidence in a preliminary response where interests of justice so require, e.g., to demonstrate that petitioner's real party in interest is estopped from challenging patent claims. See Practice Guide, Section II.C.**

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Inter Partes Review

Threshold and Institution

- An IPR petition must demonstrate a reasonable likelihood that petitioner would prevail as to at least one of the claims challenged. 35 U.S.C. 314(a); § 42.108(c).
- Where IPR standards are met, the Board will institute the trial on: 1) claim-by-claim basis; and 2) ground-by-ground basis. § 42.108(a) & (b).
 - **A party may request that panel rehears decision on petition. § 42.71(c) & (d).**
- An IPR trial will be completed within one year from institution, except the time may be extended up to six months for good cause. 35 U.S.C. 316(a)(11); § 42.100(c).

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Inter Partes Review

Patent owner response (35 U.S.C. 316(a)(8); § 42.120)

- A patent owner may file a response to petition addressing any ground for unpatentability not already denied by the Board.
- In submitting a response, the patent owner must file, through affidavits or declarations, any additional factual evidence and expert opinions on which the patent owner relies in support of the response.
- **The default date for filing a patent owner response is 3 months from institution.**

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Inter Partes Review

Motion to Amend (35 U.S.C. 316(a)(9), (b) & (d); § 42.121)

- **Authorization is not required to file the initial motion to amend, but conferring with the Board is required.**
- The motion to amend may cancel any challenged claim and/or propose a reasonable number of substitute claims.
- **Additional motion to amend may be authorized for good cause, e.g., where supplemental information is belatedly submitted.**
- Motions to amend may be limited to prevent abuse and to aid in efficient administration and timely completion of the proceeding.

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Post-Grant Review

- Most aspects of PGR and IPR are effectively the same.
- There are some differences between a PGR and an IPR, such as:
 - With limited exceptions, only those patents issuing from applications subject to first-inventor-to-file provisions are eligible. § 6(f) of AIA.
 - PGR allows challenges based on §§ 101, 102, 103, and 112, except best mode. 35 U.S.C. 321(b); § 42.204(b)(2).
 - PGR may only be requested on or prior to the date that is 9 months after the grant of a patent or issuance of a reissue patent. 35 U.S.C. 321(c); § 42.202(a).
 - Petitioner must demonstrate that it is more likely than not (*i.e.*, a higher threshold than IPR) that at least one of the claims challenged in the petition is unpatentable. 35 U.S.C. 324(a); § 42.208(c).



Covered Business Methods

- CBM proceedings employ the PGR standards and procedures subject to certain exceptions. § 18(a)(1) of AIA; § 42.303(a).
- Differences between a CBM and a PGR include:
 - Cannot file CBM petition during time a PGR petition could be filed, *i.e.*, 9 months after issuance of a patent. § 18(a)(2) of AIA.
 - Petitioner must be sued or charged with infringement. § 18(a)(1)(B) of AIA; § 42.302(a).
 - Petitioner has burden of establishing that patent is eligible for CBM review. § 42.304(a).
 - Prior Art is limited when challenging a first-to-invent patent. § 18(a)(1)(C) of AIA.



Covered Business Methods

Eligible patents:

- Both first-to-invent and first-inventor-to-file patents are eligible. §§ 6(f)(2)(A) & 18(a)(1) of AIA.
- Must be a covered business method patent. § 18(d)(1) of AIA; § 42.301.
 - Covered business method patent generally defined in the AIA as a method or corresponding apparatus for performing data processing or other operations for financial product or service.
 - The definition excludes patents for technological inventions.



Umbrella Rules

- Per statutory requirements, real parties in interest will have to be identified. *See, e.g.*, 35 U.S.C. 312(a)(2), 322(a)(2); § 42.8(b)(1).
- Practice Guide (Section I. D) provides factors that may be considered in determining whether a party constitutes a real party in interest or privy.
- Additionally, both petitioner and patent owner will be required to provide a certain level of information necessary to conduct the proceeding including related proceedings, lead and backup counsel, and contact information (email addresses and phone numbers). § 42.8(b).



Polling Question 3

Which of the following must be included in a petition for IPR, PGR, or CBM:

- A) Identification of all real parties in interest.
- B) Identification of all claims challenged and grounds on which the challenge to each claim is based.
- C) Clean copy of challenged claims.
- D) Copies of evidence relied upon.
- E) A, B and C
- F) A, B and D



Umbrella Rules

Practice Before the Board in the Trial Proceedings

- **The lead counsel must be a registered practitioner.**
- The Board may recognize counsel pro hac vice during a proceeding upon a showing of good cause, subject to the Office's Code of Professional Responsibility and any other conditions as the Board may impose. § 42.10(c).
 - ***E.g., counsel is an experienced litigation attorney and has a familiarity with subject matter at issue.***
- Similarly, the Board may take action to revoke pro hac vice status, taking into account various factors, including incompetence, unwillingness to abide by the Office's Code of Professional Responsibility, and incivility. § 42.10.



Umbrella Rules

- Routine discovery – reduces costs to parties by making basic information readily available at the outset of the proceeding. Routine discovery may assist the parties to assess the merits of their respective positions, to avoid harassment in the proceeding, or to reach settlement. § 42.51(b)(1).
 - Routine discovery includes documents cited, cross-examination for submitted testimony, and information inconsistent with positions advanced during the proceeding.
 - **Proposed rule on inconsistent statements has been modified to limit both scope and number of individuals subject to the rule. § 42.51(b)(1)(iii).**

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Umbrella Rules

Additional discovery

- **The parties may agree to additional discovery between themselves.** Otherwise, a party must request any discovery beyond routine discovery.
- A party seeking additional discovery in IPR and derivation must demonstrate that the additional discovery is in the interests of justice. 35 U.S.C. 316(a)(5) for IPR; § 42.51(c).
- A party seeking additional discovery in PGR and CBM will be subject to the lower good cause standard. 35 U.S.C. 326(a)(5) for PGR; § 42.224.

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Umbrella Rules

Supplemental information (35 U.S.C. 316(a)(3); § 42.123)

- **A request for the authorization to file a motion to submit supplemental information must be made within one month after institution.**
- **The supplemental information must be relevant to a claim for which the trial has been instituted.**
- **Any supplemental information filed later than one month after institution must show why the supplemental information reasonably could not have been obtained earlier and that consideration of the information would be in the interests-of-justice.**

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Umbrella Rules

Petitioner Estoppels After Final Written Decision

- A petitioner in an IPR/PGR/CBM may not request or maintain a proceeding before the Office with respect to any claim on any ground raised or reasonably could have been raised. 35 U.S.C. 315(e)(1), 325(e)(1); § 42.73(d)(1).
- A petitioner in an IPR/PGR/CBM may not assert in district court or the ITC that a claim is invalid on any ground petitioner raised, and in IPR/PGR, any ground that reasonably could have been raised. 35 U.S.C. 315(e)(2), 325(e)(2); § 18(a)(1)(D) of AIA.



Umbrella Rules

Patent Owner Estoppel (§ 42.73(d)(3))

- **A patent owner is precluded from taking action inconsistent with the adverse judgment including obtaining in any patent:**
 - A claim that is patentably indistinct from a finally refused or canceled claim.
 - An amendment of a specification or drawing that was denied during the trial, but this provision does not apply to an application or patent that has a different written description.
- **The proposed estoppel provision as to claims that could have been presented was not adopted in the final rule.**

Questions?



Thank You



Hiram Bernstein	Sally Lane
Senior Legal Advisor	Administrative Patent Judge
Office of Patent Legal Admin	Patent Trial and Appeal Board

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

Title of Invention	
-------------------------------	--

As the below named inventor, I hereby declare that:

This declaration is directed to: The attached application, or

United States application or PCT international application number _____
filed on _____.

The above-identified application was made or authorized to be made by me.

I believe that I am the original inventor or an original joint inventor of a claimed invention in the application.

I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

LEGAL NAME OF INVENTOR

Inventor: _____ Date (Optional) : _____

Signature: _____

Note: An application data sheet (PTO/SB/14 or equivalent), including naming the entire inventive entity, must accompany this form. Use an additional PTO/AIA/01 form for each additional inventor.

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 minute to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

**Title of
Invention**

As the below named inventor(s), I/we declare that:

This declaration is directed to: The attached application, or
 United States application or PCT international application number _____
 filed on _____
 As amended on _____ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT International filing date of the continuation-in-part application.

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

FULL NAME OF INVENTOR(S)

Inventor one: _____ Date: _____

Signature: _____ Citizen of: _____

Inventor two: _____ Date: _____

Signature: _____ Citizen of: _____

Additional inventors or a legal representative are being named on _____ additional form(s) attached hereto.

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 minute to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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)

Title of Invention			
This statement is directed to:			
<input type="checkbox"/> The attached application,			
OR			
<input type="checkbox"/> United States application or PCT international application number _____ filed on _____.			
LEGAL NAME of inventor to whom this substitute statement applies:			
(E.g., Given Name (first and middle (if any)) and Family Name or Surname)			
Residence (except for a deceased or legally incapacitated inventor):			
City	State	Country	
Mailing Address (except for a deceased or legally incapacitated inventor):			
City	State	Zip	Country
I believe the above-named inventor or joint inventor to be the original inventor or an original joint inventor of a claimed invention in the application.			
The above-identified application was made or authorized to be made by me.			
I hereby acknowledge that any willful false statement made in this statement is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.			
Relationship to the inventor to whom this substitute statement applies:			
<input type="checkbox"/> Legal Representative (for deceased or legally incapacitated inventor only),			
<input type="checkbox"/> Assignee,			
<input type="checkbox"/> Person to whom the inventor is under an obligation to assign,			
<input type="checkbox"/> Person who otherwise shows a sufficient proprietary interest in the matter (petition under 37 CFR 1.46 is required), or			
<input type="checkbox"/> Joint Inventor.			

[Page 1 of 2]

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 minute to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

SUBSTITUTE STATEMENT

Circumstances permitting execution of this substitute statement:

- Inventor is deceased,
- Inventor is under legal incapacity,
- Inventor cannot be found or reached after diligent effort, or
- Inventor has refused to execute the oath or declaration under 37 CFR 1.63.

If there are joint inventors, please check the appropriate box below:

- An application data sheet under 37 CFR 1.76 (PTO/SB/14 or equivalent) naming the entire inventive entity has been or is currently submitted.

OR

- An application data sheet under 37 CFR 1.76 (PTO/SB/14 or equivalent) has not been submitted. Thus, a Substitute Statement Supplemental Sheet (PTO/AIA/11 or equivalent) naming the entire inventive entity and providing inventor information is attached. See 37 CFR 1.64(b).

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

PERSON EXECUTING THIS SUBSTITUTE STATEMENT:

Name:		Date (Optional):	
Signature:			
Residence (unless provided in an application data sheet, PTO/SB/14 or equivalent):			
City	State	Country	
Mailing Address (unless provided in an application data sheet, PTO/SB/14 or equivalent)			
City	State	Zip	Country

Note: Use an additional PTO/AIA/02 form for each inventor who is deceased, legally incapacitated, cannot be found or reached after diligent effort, or has refused to execute the oath or declaration under 37 CFR 1.63.

<p align="center">DECLARATION FOR UTILITY OR DESIGN PATENT APPLICATION (37 CFR 1.63)</p> <p><input type="checkbox"/> Declaration Submitted With Initial Filing OR <input type="checkbox"/> Declaration Submitted After Initial Filing (surcharge (37 CFR 1.16(f)) required)</p>	Attorney Docket Number	
	First Named Inventor	
	<i>COMPLETE IF KNOWN</i>	
	Application Number	
	Filing Date	
	Art Unit	
	Examiner Name	

(Title of the Invention)

As a below named inventor, I hereby declare that:

This declaration is directed to:

The attached application,

OR

United States Application Number or PCT International application number _____ filed on _____.

The above-identified application was made or authorized to be made by me.

I believe I am the original inventor or an original joint inventor of a claimed invention in the application.

I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

Authorization To Permit Access To Application by Participating Office

If checked, the undersigned hereby grants the USPTO authority to provide the European Patent Office (EPO), the Japan Patent Office (JPO), the Korean Intellectual Property Office (KIPO), the World Intellectual Property Office (WIPO), and any other intellectual property offices in which a foreign application claiming priority to the above-identified patent application is filed access to the above-identified patent application. See 37 CFR 1.14(c) and (h). This box should not be checked if the applicant does not wish the EPO, JPO, KIPO, WIPO, or other intellectual property office in which a foreign application claiming priority to the above-identified patent application is filed to have access to the above-identified patent application.

In accordance with 37 CFR 1.14(h)(3), access will be provided to a copy of the above-identified patent application with respect to: 1) the above-identified patent application-as-filed; 2) any foreign application to which the above-identified patent application claims priority under 35 U.S.C. 119(a)-(d) if a copy of the foreign application that satisfies the certified copy requirement of 37 CFR 1.55 has been filed in the above-identified patent application; and 3) any U.S. application-as-filed from which benefit is sought in the above-identified patent application.

In accordance with 37 CFR 1.14(c), access may be provided to information concerning the date of filing the Authorization to Permit Access to Application by Participating Offices.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

DECLARATION — Utility or Design Patent Application

Direct all correspondence to:	<input type="checkbox"/>	The address associated with Customer Number:	<input style="width: 100%;" type="text"/>	OR	<input type="checkbox"/>	Correspondence address below
Name						
Address						
City			State		Zip	
Country		Telephone		Email		
WARNING:						
<p>Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available. Petitioner/applicant is advised that documents which form the record of a patent application (such as the PTO/SB/01) are placed into the Privacy Act system of records DEPARTMENT OF COMMERCE, COMMERCE-PAT-7, System name: <i>Patent Application Files</i>. Documents not retained in an application file (such as the PTO-2038) are placed into the Privacy Act system of COMMERCE/PAT-TM-10, System name: <i>Deposit Accounts and Electronic Funds Transfer Profiles</i>.</p>						
LEGAL NAME OF SOLE OR FIRST INVENTOR:						
(E.g., Given Name (first and middle (if any)) and Family Name or Surname)						
Inventor's Signature				Date (Optional)		
Residence: City		State		Country		
Mailing Address						
City		State		Zip		Country
<input type="checkbox"/> Additional inventors are being named on the _____ supplemental sheet(s) PTO/AIA/10 attached hereto						

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

SUPPLEMENTAL SHEET FOR DECLARATION**ADDITIONAL INVENTOR(S)**

Supplemental Sheet (for PTO/AIA/08,09)

Page _____ of _____

Legal Name of Additional Joint Inventor, if any:

(E.g., Given Name (first and middle (if any)) and Family Name or Surname)

Inventor's
Signature

Date (Optional)

Residence: City

State

Country

Mailing Address

City

State

Zip

Country

Legal Name of Additional Joint Inventor, if any:

(E.g., Given Name (first and middle (if any)) and Family Name or Surname)

Inventor's
Signature

Date (Optional)

Residence: City

State

Country

Mailing Address

City

State

Zip

Country

Legal Name of Additional Joint Inventor, if any:

(E.g., Given Name (first and middle (if any)) and Family Name or Surname)

Inventor's
Signature

Date (Optional)

Residence: City

State

Country

Mailing Address

City

State

Zip

Country

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

SUBSTITUTE STATEMENT SUPPLEMENTAL SHEET**INVENTOR(S)**

Supplemental Sheet (for PTO/AIA/02,04,07)

Page _____ of _____

Note: List entire inventive entity in the desired order.**Legal Name of Joint Inventor:**

(E.g., Given Name (first and middle (if any)) and Family Name or Surname)

Inventor's
Signature

Date (Optional)

Residence: City

State

Country

Mailing Address

City

State

Zip

Country

Legal Name of Joint Inventor:

(E.g., Given Name (first and middle (if any)) and Family Name or Surname)

Inventor's
Signature

Date (Optional)

Residence: City

State

Country

Mailing Address

City

State

Zip

Country

Legal Name of Joint Inventor:

(E.g., Given Name (first and middle (if any)) and Family Name or Surname)

Inventor's
Signature

Date (Optional)

Residence: City

State

Country

Mailing Address

City

State

Zip

Country

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 (1-800-786-9199) and select option 2.

Box No. VIII (iv) DECLARATION: INVENTORSHIP (only for the purposes of the designation of the United States of America)

The declaration must conform to the following standardized wording provided for in Section 214; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No.VIII (iv). If this Box is not used, this sheet should not be included in the request.

**Declaration of inventorship (Rules 4.17(iv) and 51bis.1(a)(iv))
for the purposes of the designation of the United States of America:**

I hereby declare that I believe I am the original, first and sole (if only one inventor is listed below) or joint (if more than one inventor is listed below) inventor of the subject matter which is claimed and for which a patent is sought.

This declaration is directed to the international application of which it forms a part (if filing declaration with application).

This declaration is directed to international application No. PCT/ (if furnishing declaration pursuant to Rule 26ter).

I hereby declare that my residence, mailing address, and citizenship are as stated next to my name.

I hereby state that I have reviewed and understand the contents of the above-identified international application, including the claims of said application. I have identified in the request of said application, in compliance with PCT Rule 4.10, any claim to foreign priority, and I have identified below, under the heading "Prior Applications," by application number, country or Member of the World Trade Organization, day, month and year of filing, any application for a patent or inventor's certificate filed in a country other than the United States of America, including any PCT international application designating at least one country other than the United States of America, having a filing date before that of the application on which foreign priority is claimed.

Prior Applications:
.

I hereby acknowledge the duty to disclose information that is known by me to be material to patentability as defined by 37 C.F.R. § 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the PCT international filing date of the continuation-in-part application.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:
.

Citizenship:

Inventor's Signature: **Date:**
(The signature must be that of the inventor, not that of the agent)

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:
.

Citizenship:

Inventor's Signature: **Date:**
(The signature must be that of the inventor, not that of the agent)

This declaration is continued on the following sheet, "Continuation of Box No. VIII (iv)".

PCT

REQUEST

The undersigned requests that the present international application be processed according to the Patent Cooperation Treaty.

For receiving Office use only

International Application No.

International Filing Date

Name of receiving Office and "PCT International Application"

Applicant's or agent's file reference
(if desired) (12 characters maximum)

Box No. I TITLE OF INVENTION	
Box No. II APPLICANT <input type="checkbox"/> This person is also inventor	
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)	Telephone No.
	Facsimile No.
	Applicant's registration No. with the Office
E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:	
State (that is, country) of nationality:	State (that is, country) of residence:
This person is applicant for the purposes of: <input type="checkbox"/> all designated States <input type="checkbox"/> the States indicated in the Supplemental Box	
Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)	
<input type="checkbox"/> Further applicants and/or (further) inventors are indicated on a continuation sheet.	
Box No. IV AGENT OR COMMON REPRESENTATIVE; OR ADDRESS FOR CORRESPONDENCE	
The person identified below is hereby/has been appointed to act on behalf of the applicant(s) before the competent International Authorities as: <input type="checkbox"/> agent <input type="checkbox"/> common representative	
Name and address: (Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country.)	Telephone No.
	Facsimile No.
	Agent's registration No. with the Office
E-mail authorization: Marking one of the check-boxes below authorizes the receiving Office, the International Searching Authority, the International Bureau and the International Preliminary Examining Authority to use the e-mail address indicated in this Box to send, notifications issued in respect of this international application to that e-mail address if those offices are willing to do so. <input type="checkbox"/> as advance copies followed by paper notifications; or <input type="checkbox"/> exclusively in electronic form (no paper notifications will be sent). E-mail address:	
<input type="checkbox"/> Address for correspondence: Mark this check-box where no agent or common representative is/has been appointed and the space above is used instead to indicate a special address to which correspondence should be sent.	

Box No. III FURTHER APPLICANT(S) AND/OR (FURTHER) INVENTOR(S)

If none of the following sub-boxes is used, this sheet should not be included in the request.

Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>	This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
Applicant's registration No. with the Office	

State <i>(that is, country)</i> of nationality:	State <i>(that is, country)</i> of residence:
---	---

This person is applicant for the purposes of:	<input type="checkbox"/> all designated States	<input type="checkbox"/> the States indicated in the Supplemental Box
---	--	---

Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>	This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
Applicant's registration No. with the Office	

State <i>(that is, country)</i> of nationality:	State <i>(that is, country)</i> of residence:
---	---

This person is applicant for the purposes of:	<input type="checkbox"/> all designated States	<input type="checkbox"/> the States indicated in the Supplemental Box
---	--	---

Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>	This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
Applicant's registration No. with the Office	

State <i>(that is, country)</i> of nationality:	State <i>(that is, country)</i> of residence:
---	---

This person is applicant for the purposes of:	<input type="checkbox"/> all designated States	<input type="checkbox"/> the States indicated in the Supplemental Box
---	--	---

Name and address: <i>(Family name followed by given name; for a legal entity, full official designation. The address must include postal code and name of country. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below.)</i>	This person is: <input type="checkbox"/> applicant only <input type="checkbox"/> applicant and inventor <input type="checkbox"/> inventor only <i>(If this check-box is marked, do not fill in below.)</i>
Applicant's registration No. with the Office	

State <i>(that is, country)</i> of nationality:	State <i>(that is, country)</i> of residence:
---	---

This person is applicant for the purposes of:	<input type="checkbox"/> all designated States	<input type="checkbox"/> the States indicated in the Supplemental Box
---	--	---

<input type="checkbox"/> Further applicants and/or (further) inventors are indicated on another continuation sheet.

Supplemental Box

If the Supplemental Box is not used, this sheet should not be included in the request.

1. *If, in any of the Boxes, except Boxes Nos. VIII(i) to (v) for which a special continuation box is provided, **the space is insufficient** to furnish all the information: in such case, write "Continuation of Box No...." (indicate the number of the Box) and furnish the information in the same manner as required according to the captions of the Box in which the space was insufficient, in particular:

 - (i) **if more than one person is to be indicated as applicant and/or inventor** and no "continuation sheet" is available: in such case, write "Continuation of Box No. III" and indicate for each additional person the same type of information as required in Box No. III. The country of the address indicated in this Box is the applicant's State (that is, country) of residence if no State of residence is indicated below;
 - (ii) *if, in Box No. II or in any of the sub-boxes of Box No. III, the indication "**the States indicated in the Supplemental Box**" is checked: in such case, write "Continuation of Box No. II" or "Continuation of Box No. III" or "Continuation of Boxes No. II and No. III" (as the case may be), indicate the name of the applicant(s) involved and, next to (each) such name, the State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is applicant;*
 - (iii) *if, in Box No. II or in any of the sub-boxes of Box No. III, **the inventor or the inventor/applicant is not inventor for the purposes of all designated States**: in such case, write "Continuation of Box No. II" or "Continuation of Box No. III" or "Continuation of Boxes No. II and No. III" (as the case may be), indicate the name of the inventor(s) and, next to (each) such name, the State(s) (and/or, where applicable, ARIPO, Eurasian, European or OAPI patent) for the purposes of which the named person is inventor;*
 - (iv) *if, in addition to the agent(s) indicated in Box No. IV, there are **further agents**: in such case, write "Continuation of Box No. IV" and indicate for each further agent the same type of information as required in Box No. IV;*
 - (v) *if, in Box No. VI, there are **more than three earlier applications whose priority is claimed**: in such case, write "Continuation of Box No. VI" and indicate for each additional earlier application the same type of information as required in Box No. VI.**
2. *If the applicant intends to make an indication of the wish that the international application be treated, in certain designated States, as an application for a patent of addition, certificate of addition, inventor's certificate of addition or utility certificate of addition: in such case, write the name or two-letter code of each designated State concerned and the indication "**patent of addition**," "**certificate of addition**," "**inventor's certificate of addition**" or "**utility certificate of addition**," the number of the parent application or parent patent or other parent grant and the date of grant of the parent patent or other parent grant or the date of filing of the parent application (Rules 4.11(a)(i) and 49bis.1(a) or (b)).*
3. *If the applicant intends to make an indication of the wish that the international application be treated, in the United States of America, as a continuation or continuation-in-part of an earlier application: in such case, write "United States of America" or "US" and the indication "**continuation**" or "**continuation-in-part**" and the number and the filing date of the parent application (Rules 4.11(a)(ii) and 49bis.1(d)).*

Box No. V DESIGNATIONS

The filing of this request **constitutes under Rule 4.9(a) the designation** of all Contracting States bound by the PCT on the international filing date, for the grant of every kind of protection available and, where applicable, for the grant of both regional and national patents.

However,

- DE Germany **is not designated** for any kind of national protection
- JP Japan **is not designated** for any kind of national protection
- KR Republic of Korea **is not designated** for any kind of national protection

(The check-boxes above may only be used to exclude (irrevocably) the designations concerned if, at the time of filing or subsequently under Rule 26bis.1, the international application contains in Box No. VI a priority claim to an earlier national application filed in the particular State concerned, in order to avoid the ceasing of the effect, under the national law, of this earlier national application.)

Box No. VI PRIORITY CLAIM AND DOCUMENT

The priority of the following earlier application(s) is hereby claimed:

Filing date of earlier application <i>(day/month/year)</i>	Number of earlier application	Where earlier application is:		
		national application: country or Member of WTO	regional application: regional Office	international application: receiving Office
item (1)				
item (2)				
item (3)				

Further priority claims are indicated in the Supplemental Box.

Furnishing the priority document(s):

The **receiving Office** is requested to prepare and transmit to the International Bureau a certified copy of the earlier application(s) *(only if the earlier application(s) was filed with the receiving Office which, for the purposes of this international application, is the receiving Office)* identified above as:

- all items item (1) item (2) item (3) other, see Supplemental Box

The **International Bureau** is requested to obtain from a digital library a certified copy of the earlier application(s) identified above, using, where applicable, the access code(s) indicated below *(if the earlier application(s) is available to it from a digital library)*:

- item (1) access code _____ item (2) access code _____ item (3) access code _____ other, see Supplemental Box

Restore the right of priority: the receiving Office is requested to restore the right of priority for the earlier application(s) identified above or in the Supplemental Box as item(s) (_____). *(See also the Notes to Box No. VI; further information must be provided to support a request to restore the right of priority.)*

Incorporation by reference: where an element of the international application referred to in Article 11(1)(iii)(d) or (e) or a part of the description, claims or drawings referred to in Rule 20.5(a) is not otherwise contained in this international application but is completely contained in an earlier application whose priority is claimed on the date on which one or more elements referred to in Article 11(1)(iii) were first received by the receiving Office, that element or part is, subject to confirmation under Rule 20.6, incorporated by reference in this international application for the purposes of Rule 20.6.

Box No. VII INTERNATIONAL SEARCHING AUTHORITY

Choice of International Searching Authority (ISA) *(if more than one International Searching Authority is competent to carry out the international search, indicate the Authority chosen; the two-letter code may be used):*

ISA/ _____

Continuation of Box No. VII USE OF RESULTS OF EARLIER SEARCH, REFERENCE TO THAT SEARCH		
<input type="checkbox"/> The ISA indicated in Box No. VII is requested to take into account the results of the earlier search(es) indicated below (<i>see also Notes to Box VII; use of results of more than one earlier search</i>).		
Filing date (<i>day/month/year</i>)	Application Number	Country (<i>or regional Office</i>)
<input type="checkbox"/> Statement (Rule 4.12(ii)): this international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out except, where applicable, that it is filed in a different language.		
<input type="checkbox"/> Availability of documents: the following documents are available to the ISA in a form and manner acceptable to it and therefore do not need to be submitted by the applicant to the ISA (Rule 12bis.1(f)):		
<input type="checkbox"/> a copy of the results of the earlier search,*		
<input type="checkbox"/> a copy of the earlier application,		
<input type="checkbox"/> a translation of the earlier application into a language which is accepted by the ISA,		
<input type="checkbox"/> a translation of the results of the earlier search into a language which is accepted by the ISA,		
<input type="checkbox"/> a copy of any document cited in the results of the earlier search. (<i>If known, please indicate below the document(s) available to the ISA</i>):		
<input type="checkbox"/> Transmit copy of results of earlier search and other documents (<i>where the earlier search was not carried out by the ISA indicated above but by the same Office as that which is acting as the receiving Office</i>): the receiving Office is requested to prepare and transmit to the ISA (Rule 12bis.1(c)):		
<input type="checkbox"/> a copy of the results of the earlier search,*		
<input type="checkbox"/> a copy of the earlier application,		
<input type="checkbox"/> a copy of any document cited in the results of the earlier search.		
* Where the results of the earlier search are neither available from a digital library nor transmitted by the receiving Office, the applicant is required to submit them to the receiving Office (Rule 12bis.1(a)) (<i>See item 11. in the check-list and also Notes to Box No. VII</i>).		
Filing date (<i>day/month/year</i>)	Application Number	Country (<i>or regional Office</i>)
<input type="checkbox"/> Statement (Rule 4.12(ii)): this international application is the same, or substantially the same, as the application in respect of which the earlier search was carried out except, where applicable, that it is filed in a different language.		
<input type="checkbox"/> Availability of documents: the following documents are available to the ISA in a form and manner acceptable to it and therefore do not need to be submitted by the applicant to the ISA (Rule 12bis.1(f)):		
<input type="checkbox"/> a copy of the results of the earlier search,*		
<input type="checkbox"/> a copy of the earlier application,		
<input type="checkbox"/> a translation of the earlier application into a language which is accepted by the ISA,		
<input type="checkbox"/> a translation of the results of the earlier search into a language which is accepted by the ISA,		
<input type="checkbox"/> a copy of any document cited in the results of the earlier search. (<i>If known, please indicate below the document(s) available to the ISA</i>):		
<input type="checkbox"/> Transmit copy of results of earlier search and other documents (<i>where the earlier search was not carried out by the ISA indicated above but by the same Office as that which is acting as the receiving Office</i>): the receiving Office is requested to prepare and transmit to the ISA (Rule 12bis.1(c)):		
<input type="checkbox"/> a copy of the results of the earlier search,*		
<input type="checkbox"/> a copy of the earlier application,		
<input type="checkbox"/> a copy of any document cited in the results of the earlier search.		
* Where the results of the earlier search are neither available from a digital library nor transmitted by the receiving Office, the applicant is required to submit them to the receiving Office (Rule 12bis.1(a)) (<i>See item 11. in the check-list and also Notes to Box No. VII</i>).		
<input type="checkbox"/> Further earlier searches are indicated on a continuation sheet.		

Box No. VIII DECLARATIONS		
The following declarations are contained in Boxes Nos. VIII (i) to (v) (<i>mark the applicable check-boxes below and indicate in the right column the number of each type of declaration</i>):		Number of declarations
<input type="checkbox"/> Box No. VIII (i)	Declaration as to the identity of the inventor	:
<input type="checkbox"/> Box No. VIII (ii)	Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent	:
<input type="checkbox"/> Box No. VIII (iii)	Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application	:
<input type="checkbox"/> Box No. VIII (iv)	Declaration of inventorship (only for the purposes of the designation of the United States of America)	:
<input type="checkbox"/> Box No. VIII (v)	Declaration as to non-prejudicial disclosures or exceptions to lack of novelty	:

Box No. VIII (i) DECLARATION: IDENTITY OF THE INVENTOR

The declaration must conform to the standardized wording provided for in Section 211; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (i). If this Box is not used, this sheet should not be included in the request.

Declaration as to the identity of the inventor (Rules 4.17(i) and 51bis.1(a)(i)):

This declaration is continued on the following sheet, "Continuation of Box No. VIII (i)".

Box No. VIII (ii) DECLARATION: ENTITLEMENT TO APPLY FOR AND BE GRANTED A PATENT

The declaration must conform to the standardized wording provided for in Section 212; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (ii). If this Box is not used, this sheet should not be included in the request.

Declaration as to the applicant's entitlement, as at the international filing date, to apply for and be granted a patent (Rules 4.17(ii) and 51bis.1(a)(ii)), in a case where the declaration under Rule 4.17(iv) is not appropriate:

This declaration is continued on the following sheet, "Continuation of Box No. VIII (ii)".

Box No. VIII (iii) DECLARATION: ENTITLEMENT TO CLAIM PRIORITY

The declaration must conform to the standardized wording provided for in Section 213; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (iii). If this Box is not used, this sheet should not be included in the request.

Declaration as to the applicant's entitlement, as at the international filing date, to claim the priority of the earlier application specified below, where the applicant is not the applicant who filed the earlier application or where the applicant's name has changed since the filing of the earlier application (Rules 4.17(iii) and 51bis.1(a)(iii)):

This declaration is continued on the following sheet, "Continuation of Box No. VIII (iii)".

Box No. VIII (iv) DECLARATION: INVENTORSHIP (only for the purposes of the designation of the United States of America)

The declaration must conform to the following standardized wording provided for in Section 214; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (iv). If this Box is not used, this sheet should not be included in the request.

**Declaration of inventorship (Rules 4.17(iv) and 51bis.1(a)(iv))
for the purposes of the designation of the United States of America:**

I hereby declare that I believe I am the original inventor or an original joint inventor of a claimed invention in the application.

This declaration is directed to the international application of which it forms a part (if filing declaration with application).

This declaration is directed to international application No. PCT/..... (if furnishing declaration pursuant to Rule 26ter).

I hereby declare that the above-identified international application was made or authorized to be made by me.

I hereby acknowledge that any willful false statement made in this declaration is punishable under 18 U.S.C. 1001 by fine or imprisonment of not more than five (5) years, or both.

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:
.....
.....

Inventor's Signature: Date:
(The signature must be that of the inventor, not that of the agent)

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:
.....
.....

Inventor's Signature: Date:
(The signature must be that of the inventor, not that of the agent)

Name:

Residence:
(city and either US state, if applicable, or country)

Mailing Address:
.....
.....

Inventor's Signature: Date:
(The signature must be that of the inventor, not that of the agent)

This declaration is continued on the following sheet, "Continuation of Box No. VIII (iv)".

Box No. VIII (v) DECLARATION: NON-PREJUDICIAL DISCLOSURES OR EXCEPTIONS TO LACK OF NOVELTY

The declaration must conform to the standardized wording provided for in Section 215; see Notes to Boxes Nos. VIII, VIII (i) to (v) (in general) and the specific Notes to Box No. VIII (v). If this Box is not used, this sheet should not be included in the request.

Declaration as to non-prejudicial disclosures or exceptions to lack of novelty (Rules 4.17(v) and 51bis.1(a)(v)):

This declaration is continued on the following sheet, "Continuation of Box No. VIII (v)".

Continuation of Box No. VIII (i) to (v) DECLARATION

*If the space is insufficient in any of Boxes Nos. VIII (i) to (v) to furnish all the information, including in the case where **more than two inventors are to be named** in Box No. VIII (iv), in such case, write "Continuation of Box No. VIII ..." (indicate the item number of the Box) and furnish the information in the same manner as required for the purposes of the Box in which the space was insufficient. If additional space is needed in respect of two or more declarations, a separate continuation box must be used for each such declaration. If this Box is not used, this sheet should not be included in the request.*

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What will change about the oath or declaration on September 16

What will change about the oath or declaration on September 16, 2012

On August 14, 2012 the USPTO promulgated its new Rules implementing the changes to the inventor's oath/declaration mandated by the America Invents Act. On August 30, 2012, Oppedahl Patent Law Firm presented this live webinar about the new Rules. This is an audiovisual recording of that webinar.

The webinar is about 1 hour and 50 minutes in duration. After your purchase you will receive an email message with a link that permits you to download a "zip" file of about 97 megabytes. Inside the zip file are:

- an MP4 audiovisual file, about 1 hour and 50 minutes in duration
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 - 111 presentation slides
 - a copy of the August 14, 2012 Federal Register notice
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Tell me more about the webinar

Everything will change on September 16. Everything you knew before will be wrong. Every procedure you followed in the past will be wrong.

Watch this webinar to learn what to do about the oath or declaration starting on September 16, 2012.

- Learn the circumstances in which a patent application may be filed in the name of an assignee rather than in the names of the inventors.
- Learn how to recognize and distinguish an "old" inventor's declaration and a "new" inventor's declaration
- Learn what has changed about whether you can reuse an inventor's declaration in the filing of a continuation or divisional application.
- Learn how you can postpone handing in the inventor's declaration until you receive a Notice of Allowability.
- Learn how postponing the handing-in of the inventor's declaration can negatively affect Patent Term Adjustment.
- Learn how to determine which patent applications require the "old" declaration and which patent applications require the "new" declaration.
- Learn how to simplify the PCT Request by making use of the new rules.
- Find out why an Application Data Sheet is now mandatory for most patent applications.
- Learn how Rule 47 practice (missing or uncooperative inventor) will change.
- Learn how you can use a single document as a combined assignment and inventor's declaration.

A special section has been added that focuses on the effects of the new Rules on the filing of PCT applications and on the entry into the US national phase.

Who should watch this webinar?

Basically, if you have ever prepared a declaration for an inventor to sign, or if you have ever e-filed an inventor's declaration in the USPTO, you should watch this webinar. If you have ever filed a PCT application, or if you have ever entered the US national phase from a PCT

application, you should watch this webinar. If you have ever prepared a PCT Request or a PCT Demand, you should watch this webinar. If you have ever prepared or reviewed an Application Data Sheet, you should watch this webinar.

If as an attorney you supervise, and are thus responsible for the work of, anyone who does any of these things, you should watch this webinar.

This includes registered practitioners, patent paralegals, legal assistants, and other support staff.



The presenter. Your presenter is Carl Oppedahl, a partner in OPLF. Carl previously served as the chair of the AIPLA PCT Issues Committee and is now a member of the Board of Directors of AIPLA. He has spent more than twenty years writing and prosecuting patent applications for clients. He serves as an adjunct professor at University of Denver law school, teaching Advanced Patent Law.

CLE accreditation?

CLE accreditation has been approved for California for 1½ credits and Colorado for 2 credits. A uniform certificate of attendance ("UCOA") is provided. In the past we have sometimes heard from an attendee that he or she has been able to obtain CLE credit in his or her own state by submitting the UCOA to his or her own CLE authority. Please do not ask us to try to obtain CLE accreditation from other states.

In any event the way you will receive CLE credit, if at all, is by submitting the UCOA yourself to your state CLE agency.

Frequently asked questions

Q. Can't I learn what I need to know by reading the Federal Register notice instead of attending this webinar?

A. Sure. The Federal Register notice (published August 14, 2012) is [here](#). It is fifty-two pages in length.

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A This is a copyrighted work. It is our intention that people who have purchased this download will be able to share or pass along this work just as they would a physical book. If you give a physical book to your friend, then you do not have the physical book any more. If you lend a physical book to your friend, then later when your friend returns the book to you, then your friend does not have the physical book any more.

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Is this a good webinar?

Those who attended the live webinar on August 30, 2012 completed an evaluation questionnaire. When asked "would you recommend this webinar to others?", over 99% said "yes". Here are some particular responses:

- Absolutely
- Yes - very informative
- Yes if they are filing US applications
- Absolutely! I recommended it earlier this morning to the company who handles our docketing.
- Yes. Carl is a great teacher!
- Yes - lots of good information
- Absolutely. This was well thought out and executed.

Attendees were asked "How would you compare this webinar to other webinars (1 much worse - 5 much better)?" The average response was 4.2.

Attendees were asked "How would you rate the presenter (1 bad, 5 excellent)?" The average response was 4.6.



Item #: 58

* Marked fields are required.

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The authoritative guide to the preparation of patent drawings for filing in the United States Patent and Trademark Office. Topics include:

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A section by an experienced practitioner (Margaret L. Polson of Oppedahl Patent Law Firm LLC) on best practices for creating drawings for design patent applications.

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- Review of Drawings by Office of Initial Patent Examination
- Review by USPTO Draftsperson
- On Examiner's First (Non-Allowance) Action
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- After Allowance

■ SELECTED U.S. LAWS AND RULES OF PRACTICE RELATING TO PATENT DRAWINGS

- 35 USC § 113 Drawings
 - 37 CFR § 1.58 Chemical and mathematical formulae and tables
 - 37 CFR § 1.74 Reference to drawings
 - 37 CFR § 1.81 Drawings required in patent application
 - 37 CFR § 1.83 Content of drawing
 - 37 CFR § 1.84 Standards for drawings
 - 37 CFR § 1.85 Corrections to drawings
 - 37 CFR § 1.96 Submission of computer program listings
 - 37 CFR § 1.121 Manner of making amendments in applications
 - 37 CFR § 1.151 Rules applicable [Designs]
 - 37 CFR § 1.152 Design drawings
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 - 37 CFR § 1.165 Plant drawings
 - 37 CFR § 1.171 Application for reissue
 - 37 CFR § 1.173 Reissue specification, drawings, and amendments
 - 37 CFR § 1.211 Publication of applications
 - 37 CFR § 1.215 Patent application publication
 - 37 CFR § 1.437 The drawings [International Applications]
 - 37 CFR § 1.530 Statement by patent owner in *ex parte* reexamination; amendment by patent owner in *ex parte* or *inter partes* reexamination; inventorship change in *ex parte* or *inter partes* reexamination
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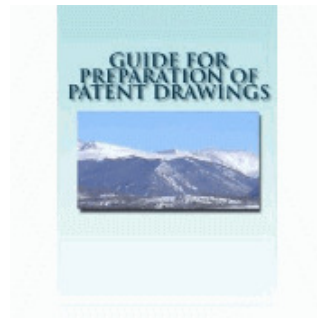
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