AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

to correct or update information in a previously submitted application data sheet, or an oath or declaration under §1.63 or §1.67, except that inventorship changes are governed by §1.48, correspondence changes are governed by §1.33(a), and citizenship changes are governed by §1.63 or §1.67; and

(2) Must be titled ''Supplemental Application Data Sheet,'' include all of the section headings listed in paragraph (b) of this section, include all appropriate data for each section heading, and must identify the information that is being changed, preferably with underlining for insertions, and strikethrough or brackets for text removed.

(d) *Inconsistencies between application data sheet and other documents.* For inconsistencies between information that is supplied by both an application data sheet under this section and other documents.

(1) The latest submitted information will govern notwithstanding whether supplied by an application data sheet, an amendment to the specification, a designation of a correspondence address, or by a §1.63 or §1.67 oath or declaration, except as provided by paragraph (d)(3) of this section;

(2) The information in the application data sheet will govern when the inconsistent information is supplied at the same time by an amendment to the specification, a designation of correspondence address, or a §1.63 or §1.67 oath or declaration, except as provided by paragraph (d)(3) of this section;

(3) The oath or declaration under §1.63 or §1.67 governs inconsistencies with the application data sheet in the naming of inventors (§1.41(a)(1)) and setting forth their citizenship (35 U.S.C. 115);

(4) The Office will capture bibliographic information from the application data sheet (notwithstanding whether an oath or declaration governs the information). Thus, the Office shall generally, for example, not look to an oath or declaration under §1.63 to see if the bibliographic information contained therein is consistent with the bibliographic information captured from an application data sheet (whether the oath or declaration is submitted prior to or subsequent to the application data sheet). Captured bibliographic information derived from an application data sheet containing errors may be corrected if applicant submits a request therefor and a supplemental application data sheet.

[65 FR 54668, Sept. 8, 2000, as amended at 65 FR 57054, Sept. 20, 2000; 69 FR 56540, Sept. 21, 2004; 70 FR 54266, Sept. 14, 2005;; 72 FR 46837, Aug. 21, 2007]

§1.77 Arrangement of application elements.

(a) The elements of the application, if applicable, should appear in the following order:

(1) Utility application transmittal form.

(2) Fee transmittal form.

(3) Application data sheet (see §1.76).

(4) Specification.

(5) Drawings.

(6) Executed oath or declaration.

(b) The specification should include the following sections in order:

(1) Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant (unless included in the application data sheet).

(2) Cross-reference to related applications (unless included in the application data sheet).

(3) Statement regarding federally sponsored research or development.

(4) The names of the parties to a joint research agreement.

(5) Reference to a ''Sequence Listing,'' a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see §1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified.

(6) Background of the invention.

(7) Brief summary of the invention.

(8) Brief description of the several views of the drawing.

(9) Detailed description of the invention.

(10) A claim or claims.

(11) Abstract of the disclosure.

(12) ''Sequence Listing,'' if on paper (see §§1.821 through 1.825).

(c) The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section

heading in uppercase and without underlining or bold type.

[65 FR 54668, Sept. 8, 2000, as amended at 70 FR 1823, Jan. 11, 2005]

§ 1.78 Claiming benefit of earlier filing date and cross-references to other applications.

(a) *Definitions*—(1) *Continuing application.* A continuing application is a nonprovisional application or an international application designating the United States of America that claims the benefit under 35 U.S.C. 120, 121, or 365(c) of a prior-filed nonprovisional application or international application designating the United States of America. An application that does not claim the benefit under 35 U.S.C. 120, 121, or 365(c) of a prior-filed application is not a continuing application even if the application claims the benefit under 35 U.S.C. 119(e) of a provisional application, claims priority under 35 U.S.C. 119(a)-(d) or 365(b) to a foreign application, or claims priority under 35 U.S.C. 365(a) or (b) to an international application designating at least one country other than the United States of America.

(2) *Divisional application.* A divisional application is a continuing application as defined in paragraph (a)(1) of this section that discloses and claims only an invention or inventions that were disclosed and claimed in a prior-filed application, but were subject to a requirement to comply with the requirement of unity of invention under PCT Rule 13 or a requirement for restriction under 35 U.S.C. 121 in the prior-filed application, and were not elected for examination and were not examined in any prior-filed application.

(3) *Continuation application.* A continuation application is a continuing application as defined in paragraph (a)(1) of this section that discloses and claims only an invention or inventions that were disclosed in the prior-filed application.

(4) *Continuation-in-part application.* A continuation-in-part application is a continuing application as defined in paragraph (a)(1) of this section that discloses subject matter that was not disclosed in the prior-filed application.

(b) *Claims under 35 U.S.C. 119(e) for the benefit of a prior-filed provisional application.* A nonprovisional application, other than for a design patent, or an international application designating the United States of America may claim the benefit of one or more prior-filed provisional applications under the conditions set forth in 35 U.S.C. 119(e) and paragraph (b) of this section.

(1) The nonprovisional application or international application designating the United States of America must be filed not later than twelve months after the date on which the provisional application was filed. This twelve-month period is subject to 35 U.S.C. 21(b) and § 1.7(a).

(2) Each prior-filed provisional application must name as an inventor at least one inventor named in the later-filed application. In addition, each prior-filed provisional application must be entitled to a filing date as set forth in § 1.53(c) and the basic filing fee set forth in § 1.16(d) must have been paid for such provisional application within the time period set forth in § 1.53(g).

(3) Any nonprovisional application or international application designating the United States of America that claims the benefit of one or more prior-filed provisional applications must contain or be amended to contain a reference to each such prior-filed provisional application, identifying it by the provisional application number (consisting of series code and serial number). If the later-filed application is a nonprovisional application, the reference required by this paragraph must be included in an application data sheet (§ 1.76), or the specification must contain or be amended to contain such reference in the first sentence(s) following the title.

(4) The reference required by paragraph (b)(3) of this section must be submitted during the pendency of the later-filed application. If the later-filed application is an application filed under 35 U.S.C. 111(a), this reference must also be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed provisional application. If the later-filed application is a nonprovisional application which entered the national stage from an international application after compliance