

Overview of Forms

Forms for applying for a patent are made available by the patent office and can be found among the [fees](#) necessary for various transactions with the patent office. The following is an overview of the most common forms required to file a nonprovisional utility patent application.

Utility Patent Application Transmittal Form or Transmittal Letter

A Utility Patent Application Transmittal Form (Form PTO/SB/05) or a transmittal letter should be filed with every patent application to instruct the USPTO as to what actual types of papers are being filed (e.g., specification, claims, drawings, declaration, information disclosure statement). It identifies the name of the applicant, the type of application, the title of the invention, the contents of the application, and any accompanying enclosures. (Form PTO/SB/21 is to be used for all correspondence after initial filing.)

Fee Transmittal Form and Appropriate Fees

The Fee Transmittal Form (Form PTO/SB/17) may be used to calculate the prescribed filing fees and indicate the method of payment, by check or by credit card. The fees are dependent upon the

number of sheets of paper in the specification and drawings, the number and type of claims presented, and whether or not a written assertion of small entity status is provided.

The filing, search, and examination fees for a patent application should be submitted with the application and must be made payable to the "Director of the United States Patent and Trademark Office" if paid by check. If an application is filed without the fees, the applicant will be notified and required to submit the fees within the time period set in the notice. If the basic filing fee was not paid at the time of filing the application, a surcharge is also required for late acceptance of the basic filing fee. Fees are subject to change and the applicant should consult the current Fee Schedule before filing.

Please note that two sets of fees exist, one for small entities and one for other than small entities. If you qualify as a small entity for patent fee purposes, no special form is required to claim your entitlement to reduced fees (you may check a special box on the transmittal form), but you should only pay small entity rates after ensuring that you qualify for the small entity discount. For example, if the inventors have not assigned any rights in the invention set forth in the application and are not under any obligation to do so (as may be required in an employment contract), small entity status is appropriate.

Application Data Sheet

The application data sheet is a sheet or sheets, that may be voluntarily submitted in either provisional or nonprovisional applications, which contains bibliographic data, arranged in a format specified by the USPTO. Specific bibliographic data includes applicant information, correspondence information, application information, representative information, domestic priority information, foreign priority information and assignment information. (See 37 CFR § 1.76.) The sheets must be produced according to a format provided by the USPTO and which is downloadable to applicant's computer.

Supplemental application data sheets may be subsequently supplied prior to payment of issue fee to either correct or update information in a previously submitted application data sheet, or an oath or declaration under title 37 CFR § 1.63 or 1.67. However, inventorship changes are governed by 37 CFR § 1.48, correspondence changes are governed by 37 CFR § 1.33(a), and citizenship changes are governed by 37 CFR § 1.63 or 1.67. Supplemental application data sheets must be titled "Supplemental Application Data Sheet," include all of the section headings listed in 37 CFR 1.76(b), include all appropriate data for each section heading and must identify the information that is being changed, preferably with underlining for insertions, and strike-through or brackets for text removed.

Oath Or Declaration

Forms PTO/SB/01, PTO/SB/01A, PTO/SB/02, and PTO/SB/02LR are made available by the Office for applicant's use. Each inventor must make an oath or declaration that he/she believes himself/herself to be the original and first inventor of the subject matter of the application, and he/she must make various other statements required by law and various statements required by the USPTO rules. If an application data sheet is filed, the USPTO rules require fewer statements in the oath or declaration. See title 37, Code of Federal Regulations, Sections 1.63 and 1.76. The oath must be sworn to by the inventor before a notary public or other officer authorized to administer oaths. A declaration may be used in lieu of an oath. Oaths or declarations are required for applications involving designs, plants, and utility inventions and for reissue applications. A declaration does not require any witness or person to administer or verify its signing. Thus, use of a declaration is preferable. When filing a continuation or divisional application a copy of an earlier-filed oath or declaration from the parent application may be acceptable. The oath or declaration must be signed by the inventor in person, or by the person entitled by law to make application on the inventor's behalf. A full first and last name with middle initial or name, if any, and the citizenship of each inventor are required. The mailing address of each inventor and foreign priority information (if any) are also required if an application data sheet is not used. Any oath or declaration must be in a language the inventor understands. If the oath or declaration used is in a language other than English, and is not in a form provided by the United States Patent and Trademark Office or provided in accordance with PCT Rule 4.17 (iv), an English translation together with a statement that the translation is accurate is required.

If the person making the oath or declaration is not the inventor, the oath or declaration shall state the relationship of that person to the inventor, upon information and belief, the facts which the inventor would have been required to state, and the circumstances which render the inventor unable to sign, namely death, insanity or legal incapacity or unavailability/refusal to sign. (See 37 CFR §§ 1.42, 1.43, and 1.47.) If the inventor has refused or cannot be reached to sign the declaration, then a petition under 37 CFR § 1.47 is required, and if there are inventors who have signed the oath or declaration, then the remaining inventors must sign the oath or declaration on behalf of the non-signing inventor. If the sole or all of the inventors has not signed the oath or declaration, then the oath or declaration must be signed by the party showing proprietary interest in the application, as shown in the petition under 37 CFR § 1.47(b). If the inventor has died or is legally incapacitated, then the legal representative of the deceased or incapacitated inventor must sign the oath or declaration on behalf of the inventor.