

is requested. For example, the card should identify the applicant's name(s), serial number, filing date, interference number, etc., and the paper(s) should be identified by specifying the type thereof, namely affidavit, amendment, appeal, components of applications, brief, drawings, fees, motions, supplemental oath or declaration, petition, etc.

The person receiving the paper(s) in the Patent and Trademark Office should check the listing on the post card against the papers being filed to be sure they are properly identified and that all the items listed are present. If any of the items listed are not being filed those items should be crossed off and the card initialed by the person receiving the papers.

A post card receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

When papers for more than one document are filed under a single cover a return addressed post card should be attached to the paper for *each* document for which a receipt is desired.

#### 504 Assignment of Applications for Examination

The Application Division assigns the application to the examining group to which it appears to belong.

#### 505 "Office Date" Stamp of Receipt

The Office stamps papers and fees with the date of their receipt in the Patent and Trademark Office or the date of their deposit in accordance with 37 CFR 1.19 except when the date of deposit in accordance with § 1.10 is a Saturday, Sunday, or federal holiday within the District of Columbia. Papers and fees filed in accordance with § 1.10 on a Saturday, Sunday, or a federal holiday within the District of Columbia are date stamped with the date of the next succeeding day which is not a Saturday, Sunday, or federal holiday within the District of Columbia. The stamp is referred to as the "Office Date" stamp.

When the last day for taking any action or paying any fee in the U.S. Patent and Trademark Office falls on a Saturday, Sunday, or a federal holiday within the District of Columbia, the action or the fee is considered timely if the action is taken or the fee is paid on the next succeeding business day.

If an application includes the necessary components for a filing date (see 37 CFR 1.41(a) and 1.53(b) and M.P.E.P. § 506), the "Office Date" stamp establishes the "filing date." Applications will not be accepted and stamped in the examining groups. They must be date stamped in the Mail Room.

#### 506 Completeness of Original Application

37 CFR 1.53 *Serial number, filing date, and completion of application.*

(a) Any application for a patent received in the Patent and Trademark Office will be assigned a serial number for identification purposes.

(b) The filing date of an application for patent is the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) Any draw-

ing required by § 1.81(a), are filed in the Patent and Trademark Office. No new matter may be introduced into an application after its filing date (§ 1.118).

(c) If any application is filed without the specification or drawing required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification or drawing in order to obtain a filing date as of the date of filing of such submission. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less a \$50.00 handling fee.

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section.

(e) An application for a patent will not be placed upon the files for examination until all its required parts, complying with the rules relating thereto, are received, except that certain minor informalities may be waived subject to subsequent correction whenever required.

(f) The filing date of an international application designating the United States of America shall be treated as the filing date in the United States of America under PCT Article 11(3), except as provided in 35 U.S.C. 102(e).

#### INCOMPLETE APPLICATIONS

If the application papers do not identify all the inventors or include at least a specification containing a description and at least one claim and any required drawing, whether prescribed by 35 U.S.C. 113 or because it is described in the specification, or if the submitted application papers are too informal to be given a filing date, the case is held in the Application Division as an *incomplete* application and the applicant is informed of the shortcomings of the papers. No filing date is granted until the incompleteness is corrected.

Form PTO-1123, Notice of Incomplete Application Papers, is prepared and mailed by the Application Division when application papers are deemed incomplete under 35 U.S.C. 111.

Such incompleteness may consist of the omission of any one of the following parts of an application. The component parts of an application necessary to obtain a filing date are:

An identification of the names of all of the inventors.

A specification, 35 U.S.C. 112.

A claim, 35 U.S.C. 112.

A drawing, if required by 35 U.S.C. 113 or if described in the specification.

Filing dates are accorded to applications filed without the basic filing fee and without the oath or declaration. In such cases a notice is mailed by Application Division requiring at least the basic filing fee and the oath or declaration be filed, accompanied by a surcharge (§ 1.16(e)). In those cases where the basic filing fee is paid, but additional fees are required, a notice is mailed by the examining group, requiring that the balance of the fee be paid.

Occasionally applications which have already been signed by the inventors contain informal claims that the attorney or agent feels should not be present in