

# Chapter 300 Ownership and Assignment

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## **301 Assignability of Patents and Applications [R-27]**

*35 U.S.C. 261. Ownership; assignment.* Subject to the provisions of this title, patents shall have the attributes of personal property.

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

A certificate of acknowledgment under the hand and official seal of a person authorized to administer oaths within the United States, or, in a foreign country, of a diplomatic or consular officer of the United States or an officer authorized to administer oaths whose authority is proved by a certificate of a diplomatic or consular officer of the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for valuable consideration, without notice, unless it is recorded in the Patent Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

*Rule 331. Recording of assignments.* (a) Assignments, including grants and conveyances, of patents or applications for patents under 35 U.S.C. 261, will be recorded in the Patent Office. Other instruments affecting title to a patent or application for patent, and licenses, even though the recording thereof may not serve as constructive notice under 35 U.S.C. 261, will be recorded as provided in this rule or in the discretion of the Commissioner.

(b) No instrument will be recorded which is not in the English language and which does not amount to an assignment, grant, mortgage, lien, incumbrance, or license, or which does not affect the title of the patent or invention to which it relates, and which does not identify the patent or application to which it relates, except as ordered by the Commissioner.

(c) An instrument relating to a patent should identify the patent by number and date (the name of the inventor and title of the invention as stated in the patent should also be given); an instrument relating to an application should identify the application by serial number and date of filing (the name of the inventor and title of the invention as stated in the application should also be given) but if an assignment is executed concurrently with or subsequent to the execution of the application but before the application is filed or before its serial number and filing date are ascertained, it should adequately identify the application, as by its date of execution and name of the inventor and title of the invention; so that there can be no mistake as to the patent or application intended.

*Rule 333. Conditional assignments.* Assignments which are made conditional on the performance of certain acts or events, as the payment of money or other condition subsequent, if recorded in the Office are regarded as absolute assignments for Office purposes until cancelled with the written consent of both parties or by the decree of a competent court. The Office has no means for determining whether such conditions have been fulfilled.

## **301.01 Accessibility of Assignment Records [R-22]**

Assignments relating to applications for registration of trademarks are open to public inspection.

The Office will not open certain parts only of an assignment document to public inspection. If such a document contains two or more items, any one of which, if alone, would be open to such inspection, then the entire document will be open. Thus, if an assignment covers either a trademark or a patent in addition to one or more patent applications, it will be available to the public ab initio; and if it covers a number of patent applications, it will be so available as soon as any one of them is patented. Assignments relating only to one or more pending applications for patent will not be open to public inspection.

If the application on which a patent was granted is a division or continuation of an earlier case, the assignment records of that case will be open to public inspection; similar situations

