

35 U.S. Code § 261 - Ownership; assignment

~~Subject to the provisions of this title, patents shall have the attributes of personal property. The Patent and Trademark Office shall maintain a register of interests in patents and applications for patents and shall record any document related thereto upon request, and may require a fee therefor.~~

(a) In General.

(1) Attributes of personal property. – Subject to the provisions of this title, patents shall have the attributes of personal property.

(2) Register of interests.—The Patent and Trademark Office shall –

(A) maintain a register of interests in patents and applications for patents;

(B) record any documents related thereto upon requests;

(C) not later than 90 days after the date on which a patent, or any interest in a patent of not less than 10 percent (in the aggregate), is assigned to any foreign entity or person, require the recording of that assignment; and

(D) maintain a publicly accessible database that is digitally searchable by fields based upon patent number, assignee, assignor, assignment date, and other criteria established by the Office.

(3) Effect of failure to comply.—No party may recover, for infringement of a patent in any litigation, any monetary damages for any period in which ownership with respect to the patent is not properly recorded in accordance with the requirements of this subsection.

(b) Applications.—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.

(c) Certificate of Acknowledgement.—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, or apostille of an official designated by a foreign country which, by treaty or convention, accords like effect to apostilles of designated officials in the United States, shall be prima facie evidence of the execution of an assignment, grant or conveyance of a patent or application for patent.

(d) Effect of Assignment.—An interest that constitutes an assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent and Trademark Office within three months from its date or prior to the date of such subsequent purchase or mortgage.