

## REPORT

## UPDATED INVENTOR DECLARATIONS

November 28, 2011

Section 4 of the America Invents Act (AIA) amends 35 U.S.C. §115 to change the language required to be present in an inventor's Declaration in a patent application. For example, amended §115 requires that the Declaration include a new statement that the application was made or was authorized to be made by the declarant. This requirement will apply to any application filed on or after the September 16, 2012 effective date.

**We recommend also including the new language in Declarations filed prior to the effective date.** For continuation or divisional applications filed on or after the effective date, §115 permits filing a copy of an earlier-filed Declaration, but *only if* such Declaration contains the new language. If the earlier-filed Declaration does not contain the new language, it appears that a newly executed Declaration will have to be filed in any continuation or divisional application(s) filed on or after the effective date. Therefore, filing Declarations having the new language now should avoid the need for execution of new Declarations in continuation or divisional applications filed on or after September 16, 2012.

We have modified our firm's Declarations to include the new language. Updated Declarations and combined Declarations/Powers of Attorney are available in the News and Events section of our website ([www.oliff.com](http://www.oliff.com)). We encourage our clients that provide us with Declarations to use

our most current forms when preparing these documents. Please let us know if you would like us to send you blank copies of the appropriate documents for your use. Of course, we are always pleased to prepare a completed Declaration or combined Declaration/Power of Attorney ready for execution upon request.

The USPTO might require additional information in Declarations for applications filed on or after the effective date. We will continue to monitor any such requirements that may be set by the USPTO in implementing the changes to Declaration practice, and will provide updates accordingly.

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*Oliff & Berridge, PLC is a full-service Intellectual Property law firm based in historic Alexandria, Virginia. The firm specializes in patent, copyright, trademark, and antitrust law and litigation, and represents a large and diverse group of domestic and international clients, including businesses ranging from large multinational corporations to small privately owned companies, major universities, and individual entrepreneurs.*

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