

§ 1.31

37 CFR Ch. I (7–1–10 Edition)

and (c)(2) of this section are not complied with, such failure will either: be treated as an authorization for the Office to process the deficiency payment and charge the processing fee set forth in § 1.17(i), or result in a requirement for compliance within a one-month non-extendable time period under § 1.136(a) to avoid the return of the fee deficiency paper, at the option of the Office.

(d) *Payment of deficiency operates as notification of loss of status.* Any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under paragraph (c) of this section will be treated under § 1.27(g)(2) as a notification of a loss of entitlement to small entity status.

[65 FR 54661, Sept. 8, 2000]

Subpart B—National Processing Provisions

PROSECUTION OF APPLICATION AND APPOINTMENT OF ATTORNEY OR AGENT

§ 1.31 Applicant may be represented by one or more patent practitioners or joint inventors.

An applicant for patent may file and prosecute his or her own case, or he or she may give a power of attorney so as to be represented by one or more patent practitioners or joint inventors. The United States Patent and Trademark Office cannot aid in the selection of a patent practitioner.

[70 FR 56127, Sept. 26, 2005]

§ 1.32 Power of attorney.

(a) *Definitions.* (1) *Patent practitioner* means a registered patent attorney or registered patent agent under § 11.6.

(2) *Power of attorney* means a written document by which a principal authorizes one or more patent practitioners or joint inventors to act on his or her behalf.

(3) *Principal* means either an applicant for patent (§ 1.41(b)) or an assignee of entire interest of the applicant for patent or in a reexamination proceeding, the assignee of the entirety of ownership of a patent. The principal executes a power of attorney designating one or more patent practi-

tioners or joint inventors to act on his or her behalf.

(4) *Revocation* means the cancellation by the principal of the authority previously given to a patent practitioner or joint inventor to act on his or her behalf.

(5) *Customer Number* means a number that may be used to:

(i) Designate the correspondence address of a patent application or patent such that the correspondence address for the patent application, patent or other patent proceeding would be the address associated with the Customer Number;

(ii) Designate the fee address (§ 1.363) of a patent such that the fee address for the patent would be the address associated with the Customer Number; and

(iii) Submit a list of patent practitioners such that those patent practitioners associated with the Customer Number would have power of attorney.

(b) A power of attorney must:

(1) Be in writing;

(2) Name one or more representatives in compliance with (c) of this section;

(3) Give the representative power to act on behalf of the principal; and

(4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant.

(c) A power of attorney may only name as representative:

(1) One or more joint inventors (§ 1.45);

(2) Those registered patent practitioners associated with a Customer Number;

(3) Ten or fewer patent practitioners, stating the name and registration number of each patent practitioner. Except as provided in paragraph (c)(1) or (c)(2) of this section, the Office will not recognize more than ten patent practitioners as being of record in an application or patent. If a power of attorney names more than ten patent practitioners, such power of attorney must be accompanied by a separate paper indicating which ten patent practitioners named in the power of attorney are to be recognized by the Office as being of record in the application or

patent to which the power of attorney is directed.

[69 FR 29877, May 26, 2004, as amended at 70 FR 56127, Sept. 26, 2005]

§ 1.33 Correspondence respecting patent applications, reexamination proceedings, and other proceedings.

(a) *Correspondence address and daytime telephone number.* When filing an application, a correspondence address must be set forth in either an application data sheet (§1.76), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§1.76(b)(1) and 1.63(c)(2)) as the correspondence address. The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:

(1) *Prior to filing of §1.63 oath or declaration by any of the inventors.* If a §1.63 oath or declaration has not been filed by any of the inventors, the correspondence address may be changed by the party who filed the application. If the application was filed by a patent practitioner, any other patent practitioner named in the transmittal papers

may also change the correspondence address. Thus, the inventor(s), any patent practitioner named in the transmittal papers accompanying the original application, or a party that will be the assignee who filed the application, may change the correspondence address in that application under this paragraph.

(2) *Where a §1.63 oath or declaration has been filed by any of the inventors.* If a §1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

(b) *Amendments and other papers.* Amendments and other papers, except for written assertions pursuant to §1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A patent practitioner of record appointed in compliance with §1.32(b);

(2) A patent practitioner not of record who acts in a representative capacity under the provisions of §1.34;

(3) An assignee as provided for under §3.71(b) of this chapter; or

(4) All of the applicants (§1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with §3.71 of this chapter.

(c) All notices, official letters, and other communications for the patent owner or owners in a reexamination proceeding will be directed to the correspondence address. Amendments and other papers filed in a reexamination proceeding on behalf of the patent owner must be signed by the patent owner, or if there is more than one owner by all the owners, or by an attorney or agent of record in the patent file, or by a registered attorney or agent not of record who acts in a representative capacity under the provisions of §1.34. Double correspondence with the patent owner or owners and the patent owner's attorney or agent, or with more than one attorney or agent, will not be undertaken.

(d) A "correspondence address" or change thereto may be filed with the Patent and Trademark Office during the enforceable life of the patent. The "correspondence address" will be used