

The total deficiency payment owed is the sum of the individual deficiency owed amounts for each fee amount previously erroneously paid as a small entity. Where a fee paid in error as a small entity was subject to a fee decrease between the time the fee was paid in error and the time the deficiency is paid in full, the deficiency owed is equal to the amount (previously) paid in error;

(ii) *Itemization of the deficiency payment.* An itemization of the total deficiency payment is required. The itemization must include the following information:

(A) Each particular type of fee that was erroneously paid as a small entity, (e.g., basic statutory filing fee, two-month extension of time fee) along with the current fee amount for a non-small entity;

(B) The small entity fee actually paid, and when. This will permit the Office to differentiate, for example, between two one-month extension of time fees erroneously paid as a small entity but on different dates;

(C) The deficiency owed amount (for each fee erroneously paid); and

(D) The total deficiency payment owed, which is the sum or total of the individual deficiency owed amounts set forth in paragraph (c)(2)(ii)(C) of this section.

(3) *Failure to comply with requirements.* If the requirements of paragraphs (c)(1) 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 Applicants may be represented by a registered patent attorney or patent agent.

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 a registered patent attorney or registered patent agent. See §10.6 of this subchapter. The United States Patent and Trademark Office cannot aid in the selection of a registered patent attorney or patent agent.

[69 FR 29877, May 26, 2004]

EFFECTIVE DATE NOTE: At 69 FR 35452, June 24, 2004, §1.31 was revised, effective July 26, 2004. For the convenience of the user, the revised text is set forth as follows:

#### § 1.31 Applicants may be represented by a registered attorney or agent.

An applicant for patent may file and prosecute his or her own case, or he or she may be represented by a registered attorney, registered agent, or other individual authorized to practice before the United States Patent and Trademark Office in patent matters. See §§11.6 and 11.9 of this subchapter. The United States Patent and Trademark Office cannot aid in the selection of a registered attorney or agent.

#### § 1.32 Power of attorney.

(a) Definitions.

(1) *Power of attorney* means a written document by which a principal designates a registered patent attorney or a registered patent agent to act on his or her behalf.

(2) *Principal* means either an applicant for patent (§1.41(b)) or an assignee of entire interest of the applicant. The principal executes a power of attorney designating one or more registered patent attorneys or registered patent agents to act on his or her behalf.

(3) *Revocation* means the cancellation by the principal of the authority previously given to a registered patent attorney or registered patent agent to act on his or her behalf.

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

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(i) Designate the correspondence address of a patent application or patent such that the correspondence address for the patent application or patent 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 practitioners such that those registered 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 registered patent attorneys or registered patent agents (see §10.6 of this subchapter) (patent practitioners). 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 application or patent to which the power of attorney is directed.

[69 FR 29877, May 26, 2004]

#### **§ 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 all notices, official letters, and other communications relating to the application to the correspondence address. The Office will not engage in double correspondence with an applicant and a registered patent attorney or patent agent, or with more than one registered patent attorney or patent agent except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will establish one as the correspondence address and will use the address associated with a Customer Number, if given, 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 a §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 registered attorney or agent, any other registered practitioner named in the transmittal papers may also change the correspondence address. Thus, the inventor(s), any registered 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