

§ 1.34

37 CFR Ch. I (7–1–06 Edition)

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 attorney or agent of record (*see* §1.32(b)) in the patent file at the address listed on the register of patent attorneys and agents maintained pursuant to §§11.5 and 11.11 of this subchapter, or, if no attorney or agent is of record, to the patent owner or owners at the address or addresses of record. 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. If more than one attorney or agent is of record and a correspondence address has not been specified, correspondence will be

held with the last attorney or agent made of record.

(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 in any correspondence relating to maintenance fees unless a separate “fee address” has been specified. See §1.363 for “fee address” used solely for maintenance fee purposes.

(e) A change of address filed in a patent application or patent does not change the address for a patent practitioner in the roster of patent attorneys and agents. See §11.11 of this title.

[36 FR 12617, July 2, 1971, as amended at 46 FR 29181, May 29, 1981; 49 FR 34724, Aug. 31, 1984; 50 FR 5171, Feb. 6, 1985; 62 FR 53184, Oct. 10, 1997; 65 FR 54661, Sept. 8, 2000; 69 FR 29877, May 26, 2004; 69 FR 35452, June 24, 2004; 70 FR 3889, Jan. 27, 2005; 70 FR 56127, Sept. 26, 2005]

§ 1.34 Acting in a representative capacity.

When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required.

[70 FR 56127, Sept. 26, 2005]

§ 1.36 Revocation of power of attorney; withdrawal of patent attorney or agent.

(a) A power of attorney, pursuant to §1.32(b), may be revoked at any stage in the proceedings of a case by an applicant for patent (§1.41(b)) or an assignee of the entire interest of the applicant, or the owner of the entire interest of a patent. A power of attorney to the patent practitioners associated with a Customer Number will be treated as a request to revoke any powers of

attorney previously given. Fewer than all of the applicants (or fewer than all of the assignees of the entire interest of the applicant or, in a reexamination proceeding, fewer than all the owners of the entire interest of a patent) may revoke the power of attorney only upon a showing of sufficient cause, and payment of the petition fee set forth in §1.17(f). A patent practitioner will be notified of the revocation of the power of attorney. Where power of attorney is given to the patent practitioners associated with a Customer Number (§1.32(c)(2)), the practitioners so appointed will also be notified of the revocation of the power of attorney when the power of attorney to all of the practitioners associated with the Customer Number is revoked. The notice of revocation will be mailed to the correspondence address for the application (§1.33) in effect before the revocation. An assignment will not of itself operate as a revocation of a power previously given, but the assignee of the entire interest of the applicant may revoke previous powers of attorney and give another power of attorney of the assignee's own selection as provided in §1.32(b).

(b) A registered patent attorney or patent agent who has been given a power of attorney pursuant to §1.32(b) may withdraw as attorney or agent of record upon application to and approval by the Director. The applicant or patent owner will be notified of the withdrawal of the registered patent attorney or patent agent. Where power of attorney is given to the patent practitioners associated with a Customer Number, a request to delete all of the patent practitioners associated with the Customer Number may not be granted if an applicant has given power of attorney to the patent practitioners associated with the Customer Number in an application that has an Office action to which a reply is due, but insufficient time remains for the applicant to file a reply. See §41.5 of this title for withdrawal during proceedings before the Board of Patent Appeals and Interferences.

[69 FR 49997, Aug. 12, 2004, as amended at 70 FR 56128, Sept. 26, 2005]

WHO MAY APPLY FOR A PATENT

§ 1.41 Applicant for patent.

(a) A patent is applied for in the name or names of the actual inventor or inventors.

(1) The inventorship of a nonprovisional application is that inventorship set forth in the oath or declaration as prescribed by §1.63, except as provided for in §§1.53(d)(4) and 1.63(d). If an oath or declaration as prescribed by §1.63 is not filed during the pendency of a nonprovisional application, the inventorship is that inventorship set forth in the application papers filed pursuant to §1.53(b), unless applicant files a paper, including the processing fee set forth in §1.17(i), supplying or changing the name or names of the inventor or inventors.

(2) The inventorship of a provisional application is that inventorship set forth in the cover sheet as prescribed by §1.51(c)(1). If a cover sheet as prescribed by §1.51(c)(1) is not filed during the pendency of a provisional application, the inventorship is that inventorship set forth in the application papers filed pursuant to §1.53(c), unless applicant files a paper including the processing fee set forth in §1.17(q), supplying or changing the name or names of the inventor or inventors.

(3) In a nonprovisional application filed without an oath or declaration as prescribed by §1.63 or a provisional application filed without a cover sheet as prescribed by §1.51(c)(1), the name, residence, and citizenship of each person believed to be an actual inventor should be provided when the application papers pursuant to §1.53(b) or §1.53(c) are filed.

(4) The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change effected under PCT Rule 92*bis*. See §1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92*bis* subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§1.48(f)(1) does not apply