

(2) By the patent owner, or applicant in the case of derivation, within 21 days of service of the petition; or

(3) By either party, within 21 days of a change of the information listed in paragraph (b) of this section stated in an earlier paper.

(b) Each of the following notices must be filed:

(1) *Real party-in-interest*. Identify each real party-in-interest for the party.

(2) *Related matters*. Identify any other judicial or administrative matter that would affect, or be affected by, a decision in the proceeding.

(3) *Lead and back-up counsel*. If the party is represented by counsel, then counsel must be identified.

(4) *Service information*. Identify (if applicable):

- (i) An electronic mail address;
- (ii) A postal mailing address;
- (iii) A hand-delivery address, if different than the postal mailing address;
- (iv) A telephone number; and
- (v) A facsimile number.

#### § 42.9 Action by patent owner.

(a) *Entire interest*. An owner of the entire interest in an involved application or patent may act to the exclusion of the inventor (see § 3.71 of this title).

(b) *Part interest*. An owner of a part interest in the subject patent may move to act to the exclusion of an inventor or a co-owner. The motion must show the inability or refusal of an inventor or co-owner to prosecute the proceeding or other cause why it is in the interests of justice to permit the owner of a part interest to act in the trial. In granting the motion, the Board may set conditions on the actions of the parties.

#### § 42.10 Counsel.

(a) If a party is represented by counsel, the party must designate a lead counsel and a back-up counsel who can conduct business on behalf of the lead counsel.

(b) A power of attorney must be filed with the designation of counsel, except the patent owner should not file an additional power of attorney if the designated counsel is already counsel of record in the subject patent or application.

(c) The Board may recognize counsel *pro hac vice* during a proceeding upon a showing of good cause, subject to the condition that lead counsel be a registered practitioner and to any other conditions as the Board may impose. For example, where the lead counsel is a registered practitioner, a motion to appear *pro hac vice* by counsel who is not a registered practitioner may be granted upon showing that counsel is an experienced litigating attorney and has an established familiarity with the subject matter at issue in the proceeding.

(d) A panel of the Board may disqualify counsel for cause after notice and opportunity for hearing. A decision to disqualify is not final for the purposes of judicial review until certified by the Chief Administrative Patent Judge.

(e) Counsel may not withdraw from a proceeding before the Board unless the Board authorizes such withdrawal.

#### § 42.11 Duty of candor.

Parties and individuals involved in the proceeding have a duty of candor and good faith to the Office during the course of a proceeding.

#### § 42.12 Sanctions.

(a) The Board may impose a sanction against a party for misconduct, including:

- (1) Failure to comply with an applicable rule or order in the proceeding;
- (2) Advancing a misleading or frivolous argument or request for relief;
- (3) Misrepresentation of a fact;
- (4) Engaging in dilatory tactics;
- (5) Abuse of discovery;
- (6) Abuse of process; or
- (7) Any other improper use of the proceeding, including actions that harass or cause unnecessary delay or an unnecessary increase in the cost of the proceeding.

(b) Sanctions include entry of one or more of the following:

- (1) An order holding facts to have been established in the proceeding;
- (2) An order expunging or precluding a party from filing a paper;
- (3) An order precluding a party from presenting or contesting a particular issue;