

applicant will be sent a notice to either submit a power of attorney with ten or fewer patent practitioners or to use Customer Number practice. For example, if more than ten patent practitioners have been named in a combined declaration and power of attorney (e.g., from an earlier filed application (see § 1.63(d)(1)(iv))), then the Office of Initial Patent Examination will mail a notice requiring a new power of attorney. If the application has been assigned, the new power of attorney should be signed by the assignee of the entire interest.

Although any power of attorney listing more than ten patent practitioners would be given a paper number and physically entered into the patent application file, the patent practitioners so listed would not be of record (entered into the Office computer system or permitted to sign an express abandonment). Customer Number practice allows the Office to enter a single five or six digit number into the power of attorney field instead of a large number of patent practitioners and is a more appropriate use of Office resources. See MPEP § 403.

Section 1.33: Section 1.33 is proposed to be revised to reflect Customer Number practice. If applicant provides, in a single document, both a complete typed address and a Customer number and requests that both be used for the correspondence address, the address associated with the Customer Number will be used. Section 1.33(a) is proposed to be revised to include the following sentence: "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 the address associated with a Customer Number is one of the addresses given." Applicants will often specify the correspondence address in more than one paper that is filed with an application, and the address given in the different places sometimes conflicts. Where the applicant specifically directs the Office to use a correspondence address in more than one paper, priority will be accorded to the correspondence address specified in the following order: (1) Application data sheet (ADS); (2) Application transmittal; (3) Oath or declaration (unless power of attorney is more current); and (4) Power of attorney. Accordingly, if the ADS includes a typed correspondence address, and the declaration gives a different address (i.e., the address associated with a Customer Number) as the correspondence address, the Office will use the typed correspondence

address as included on the ADS. In the experience of the Office, the ADS is the most recently created document and tends to have the most current address. After the correspondence address has been entered according to the above procedure, it will only be changed pursuant to § 1.33(a)(1).

Paragraph (b)(1) of § 1.33 is proposed to be revised to change the reference from § 1.34(b) to proposed new § 1.32.

Paragraph (b)(2) of § 1.33 is proposed to be revised to change § 1.34(a) to § 1.34 to be consistent with the proposal to revise § 1.34.

Paragraph (c) of § 1.33 is proposed to be revised to change the cross-reference to § 1.32(b) instead of § 1.34(b) and to change the reference to § 1.34(a) to § 1.34 to be consistent with the proposed revision to § 1.34.

Section 1.34: The Office proposes to revise title to "Acting in a Representative Capacity." The paragraph designation for paragraph (a) is proposed to be deleted and ", pursuant to § 1.31," is proposed to be deleted for clarity. In addition, "a registered patent attorney or patent agent should specify his or her registration number with his or her signature" is proposed to be changed to "a registered patent attorney or patent agent must specify his or her exact name, as registered, and the registration number with his or her signature." When a registered patent attorney or patent agent acts in a representative capacity, it should be clear who is signing the paper. Since signatures are not always legible, it is necessary for the registered patent attorney or agent to specify his or her registration number, and also to include his or her exact name so that the identity of the person who is acting in a representative capacity may be identified.

Paragraph (b) of § 1.34 is proposed to be deleted. With Customer Number practice, the associate power of attorney practice set forth in § 1.34(b) is no longer necessary because once power of attorney is given to the patent practitioners associated with a Customer Number, each attorney associated with the Customer Number has an equal right to change the list of patent practitioners associated with that Customer Number. Customer number practice is also preferable to having an associate power of attorney practice because when a principal attorney gives an associate power of attorney, and the principal attorney subsequently dies or withdraws as attorney, the associate power of attorney is terminated. The termination of the authority of the associate attorney is difficult for the Office to enforce. When Customer Number practice is

used, the death or withdrawal of an attorney originally associated with the Customer Number has no impact upon practitioners who later become associated with the Customer Number, and as a result, Customer Number practice is more efficient for the Office to administer than the associate power of attorney practice. Furthermore, an applicant or assignee who gives power of attorney to a limited number of patent practitioners has expressed a desire to be represented by only those patent practitioners. As § 1.34 is proposed to be revised, if Customer Number practice is not used, an applicant or assignee will be required to sign a new power of attorney in order for an associate practitioner to be "of record" instead of the specifically identified principal patent practitioner. Of course, a registered patent practitioner may still act in a representative capacity pursuant to § 1.34 (by providing his or her exact name and a registration number with his or her signature), and the proposed rule changes do not propose to change this flexibility.

Section 1.36: The Office proposes to delete "or authorization" from the title and to revise § 1.36 to include new paragraphs (a) and (b) to address revocation of power of attorney in one paragraph and withdrawal in another paragraph. In addition, "or authorization of agent" is proposed to be deleted since the term "power of attorney" has been defined to include an authorization of an agent. The cross-reference to § 1.31 is proposed to be changed to § 1.32(b).

Paragraph (a), as proposed to be revised, addresses revocation of a power of attorney. A registered patent attorney or patent agent will be notified of the revocation, except that where the power of attorney is to the patent practitioners associated with a Customer Number, the notice is only given when the power of attorney to the practitioners associated with the Customer Number is revoked. When the power of attorney is revoked, a single notice is mailed to the correspondence address in effect before the power of attorney was revoked. An associate registered patent attorney or patent agent whose address is the same as that of the principal registered patent attorney or patent agent is not separately informed of a revocation. As a result, the Office has proposed to delete the suggestion in the rule that such an associate practitioner would be notified of the revocation of power of attorney.

When power of attorney is given to the registered patent attorneys and patent agents associated with a Customer Number, for example with PTO/SB/81, the list of patent