3510-16-P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. PTO-P-2025-0008]

RIN 0651-AD85

Required Use by Foreign Applicants and Patent Owners of a Patent Practitioner

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) is amending the Rules of Practice in Patent Cases to require patent applicants and patent owners whose domicile is not located within the United States (U.S.) or its territories (hereinafter foreign applicants/inventors and patent owners) to be represented by a registered patent practitioner. A requirement that foreign applicants/inventors and patent owners be represented by a registered patent practitioner will bring the U.S. in line with most other countries that require that such parties be represented by a licensed or registered person of that country. Additionally, this requirement will increase efficiency and enable the USPTO to more effectively use available mechanisms to enforce compliance by all foreign applicants/inventors and patent owners with U.S. statutory and regulatory requirements in patent matters, and enhance the USPTO's ability to respond to false certifications, misrepresentations, and fraud.

DATES: This rule is effective on [INSERT DATE 120 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mark Polutta, Senior Legal Advisor, at (571) 272-7709, or Andrew St. Clair, Legal Advisor, at (571) 270-0238, of the Office of Patent Legal Administration or via email addressed to patentpractice@uspto.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to its authority under 35 U.S.C. 2(b)(2), the USPTO is revising the rules in part 1 of title 37 of the Code of Federal Regulations to require foreign applicants/inventors and patent owners to be represented by a registered patent practitioner, as defined in 37 CFR 1.32(a)(1) (i.e., a registered patent attorney or registered patent agent under 37 CFR 11.6 or an individual given limited recognition under § 11.9(a) or (b) or § 11.16) (hereinafter, registered patent practitioner). Requiring all foreign applicants/inventors and patent owners to be represented by a registered patent practitioner: (1) treats foreign applicants/inventors and patent owners similarly to how U.S. applicants/inventors and patent owners are treated in other countries and harmonizes U.S. practice with the rest of the world; (2) increases efficiency as the USPTO spends significant resources assisting *pro se* applicants (i.e., an applicant who is prosecuting the application without a registered patent practitioner); (3) enables the USPTO to more effectively use available mechanisms to enforce compliance with statutory and regulatory requirements in patent matters; and (4) enhances the USPTO's ability to respond to false certifications, misrepresentations, and fraud.

A. *Harmonization of U.S. Practice with Other Intellectual Property (IP) Offices with Respect to Representation*

Almost all IP Offices require foreign applicants/inventors and patent owners to be represented by a person licensed or registered in that country. The USPTO is implementing a similar requirement. Requiring foreign applicants/inventors and patent owners to be represented by a registered patent practitioner helps to harmonize patent filing practice across IP Offices.

B. *Increase Efficiency*

The USPTO utilizes significant resources assisting *pro se* inventors. Requiring foreign applicants/inventors and patent owners to use registered patent practitioners will increase efficiency, as the applications will be in better form for examination. Applications from *pro se* inventors generally require additional processing by the Office of Patent Application Processing

(OPAP) because the application papers are often not in condition for publication, examination, or both. Additionally, *pro se* applications usually require patent examiners to spend additional examination time on procedural matters, thereby increasing overall patent application pendency. Implementing this final rule will help allocate USPTO resources to the merits of examination and, accordingly, decrease patent application processing times.

C. *Enforce Compliance with U.S. Statutory and Regulatory Requirements*

The requirement for representation by a registered patent practitioner is also necessary to enforce compliance by all foreign patent applicants/inventors and patent owners with U.S. statutory and regulatory requirements in patent matters. Registered patent practitioners are subject to the USPTO Rules of Professional Conduct and disciplinary sanctions for violations of those rules. *See* 37 CFR 11.15, 11.20, and 11.100-11.901. Accordingly, registered patent practitioners have, among others, various ethical obligations to the USPTO, including a duty to cooperate with inquiries and investigations. *See*, e.g., 37 CFR 11.303 and 11.801.

The USPTO has seen an increase in the number of false micro entity certifications to claim a reduction in fees and other false certification documents being filed. False certifications unjustly diminish the monetary resources of the USPTO, and false certifications on petitions or requests to expedite examination result in applications being unjustly advanced out of turn. Requiring submissions to be made by registered patent practitioners subject to the USPTO Rules of Professional Conduct and concomitant disciplinary sanctions imposed by the USPTO Director will make it less likely that the submissions will be signed by an unauthorized party or contain inaccurate or fraudulent statements, particularly with regard to any certification of micro entity status to claim a reduction in fees and any certification relevant to expediting the application.

D. *Fraud Mitigation and the Integrity of the U.S. Patent System*

Requiring foreign patent applicants/inventors and patent owners to use registered patent practitioners will also facilitate fraud mitigation and protect the integrity of the U.S. patent system. As discussed, registered patent practitioners have a duty to cooperate with investigations

and respond to lawful requests for information. *See* 37 CFR 11.801(b). Further, it is professional misconduct for a registered patent practitioner to engage in conduct involving dishonesty, fraud, deceit, or misrepresentation. *See* 37 CFR 11.804(c). It is also professional misconduct for a registered patent practitioner to engage in conduct that is prejudicial to the administration of justice. *See* 37 CFR 11.804(d). Because registered patent practitioners are subject to disciplinary sanctions pursuant to 37 CFR 11.15 and 11.20, they have an interest in responding to inquiries and investigations that extends beyond the outcome of a particular application.

For example, the USPTO currently sends fee deficiency notices in applications which appear to have false micro entity certifications, and can also send requests for information or show cause orders in applications in which an apparent misrepresentation has been made. In patent applications with *pro se* inventor-applicants, abandonment of the application effectively terminates the USPTO's ability to gather information. If a subsequent application is filed on the same subject matter, for example, by the same entity that made the false micro entity certification in the abandoned application, it may be difficult or impossible for the USPTO to establish that the applications are commonly owned or otherwise attributable to the same parties. However, when a registered patent practitioner is of record in the application or files papers in the application, the ability of the USPTO to gather information about the certifications or representations that were made extends beyond abandonment of the application. Therefore, requiring foreign patent applicants/inventors and patent owners to use registered patent practitioners will facilitate fraud mitigation and protect the integrity of the U.S. patent system.

II. *Enforcement*

Unsigned or improperly signed papers are not entered into the record of the application or patent. *See*, e.g., Manual of Patent Examining Procedure (MPEP) 714.01. As such, when representation by a registered patent practitioner is required, papers such as amendments and other replies, application data sheets, information disclosure statements, or petitions, will not be entered unless they are signed by a registered patent practitioner. This does not apply to papers

which are required to be signed by a specific party, such as the inventor's oath or declaration under 37 CFR 1.63.

The definition of the term "domicile" is provided in 37 CFR 1.9(p). The domicile of an inventor-applicant will normally be determined by the residence information provided in the application data sheet (ADS) under 37 CFR 1.76, or the inventor's oath or declaration under 37 CFR 1.63. The domicile of an applicant who is not an inventor will normally be determined based on the mailing address provided in the Applicant Information section of the ADS. If an ADS is inconsistent with the information provided in another document that was submitted at the same time or prior to the ADS submission, the ADS will control. *See* 37 CFR 1.76(d). This is because the ADS is intended to be the means by which an applicant provides complete bibliographic information. In some instances, the USPTO may refer to sources other than those listed above in order to assess compliance with the domicile requirement, including sources of information that are not present in the patent application file. For example, in order to determine whether the domicile is accurate, the USPTO may refer to the notarized Patent Electronic System Verification Form (PTO-2042a) or other identity verification information. The Patent Electronic System Verification Form is a document which may be sent to the Electronic Business Center (EBC) during the process of obtaining a registered Patent Center account.

For international applications having an international filing date on or after September 16, 2012, the international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c)(1) and (2) within the period set in 37 CFR 1.495. *See* MPEP 1893.01. Therefore, documents and fees submitted to comply with 35 U.S.C. 371(c) and/or (f) will be accepted as required by statute. Additionally, processing of documents and fees by the PCT Receiving Office, International Searching Authority, International Preliminary Examining Authority, or the International Bureau as provided for by the Patent Cooperation Treaty is not affected by this rule.

A paper filed on behalf of the patent owner may indicate the domicile of the patent owner if such information is not present in the application file. When it is necessary for the USPTO to act on a paper submitted in the file of an issued patent and the paper is not signed by a registered patent practitioner, the paper may not be treated on its merits. For example, if a petition to accept unintentionally delayed payment of a maintenance fee in an expired patent under 37 CFR 1.378(b) is filed that is not signed by a registered patent practitioner, the petition may be dismissed before consideration on the merits if it cannot be determined whether the paper complies with 37 CFR 1.31 and 1.33(b).

Regarding the assessment of compliance referred to above, applicants, patent owners, and practitioners are reminded that the presentation to the Office of any paper by a party, whether a practitioner or non-practitioner, constitutes a certification under 37 CFR 11.18(b). A misrepresentation of the domicile of an applicant or patent owner would not be "to the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances" as required under 37 CFR 11.18(b)(2). Violations of 37 CFR 11.18(b)(2) by a party, whether a practitioner or non-practitioner, may result in the imposition of sanctions under 37 CFR 11.18(c), which may include termination of the proceedings. *See* 37 CFR 1.4(d)(5)(i).

III. Discussion of Specific Rules

By this final rule, the following sections to 37 CFR part 1 are amended as follows:

A. *Section 1.9*

Section 1.9 is amended to add new paragraph (p) defining domicile as the permanent legal place of residence of a natural person or the principal place of business of a juristic entity. The domicile of an inventor-applicant will normally be determined by the residence information provided in the ADS under 37 CFR 1.76, or the inventor's oath or declaration under 37 CFR 1.63. The domicile of an applicant who is not an inventor will normally be determined

based on the mailing address provided in the Applicant Information section of the ADS. *See* section II. above for further discussion.

B. *Section 1.31*

Section 1.31 is amended by revising the title and rule to include "patent owner," and reformatting the rule language into paragraphs (a) and (b). The section is further amended to indicate that an applicant as defined in § 1.42 or patent owner whose domicile is not located within the U.S. or its territories must be represented by a registered patent practitioner. The section is also amended to require that a patent owner who is a juristic entity must be represented by a registered patent practitioner. The section previously required a juristic entity who was the applicant to be represented by a registered patent practitioner, but has now been expanded to make a similar requirement for patent owners.

The phrase "an applicant as defined in § 1.42" in paragraph (a) encompasses any inventor, joint inventor, legal representative, person to whom the inventor has assigned, person to whom the inventor is under an obligation to assign, or person who otherwise shows sufficient proprietary interest in the matter who is named as an applicant. Thus, an applicant as defined in § 1.42 must be represented by a registered patent practitioner if at least one of the parties identified as the applicant has a domicile that is not located within the U.S. or its territories. *See* § 1.31(a)(2). As a reminder, powers of attorney must be signed by all parties identified as the applicant or patent owner in order to be effective.

C. *Section 1.32*

Section 1.32 is amended by adding the definition of patent practitioner to partially parallel § 11.10(a).

D. *Section 1.33*

Section 1.33 is amended by revising paragraph (b)(3) to indicate that, unless otherwise specified, amendments and other papers filed in an application or patent submitted on behalf of a juristic entity, an applicant as defined in § 1.42 whose domicile is not located within the United

States or its territories, or a patent owner whose domicile is not located within the United States or its territories must be signed by a patent practitioner. These revisions to paragraph (b)(3) are consistent with the changes to § 1.31, discussed above.

A foreign domiciled inventor who is the applicant may initially file a U.S. patent application with the USPTO and pay the filing fee at the time of filing. However, any application data sheet that accompanies the application papers or is submitted later, as well as all follow-on correspondence, must be signed by a patent practitioner. A patent practitioner must also sign any request or petition that is filed in such an application, including but not limited to a request for prioritized examination and a petition to make special. To pay the issue fee, PTOL-85 Part B is required by virtue of 37 CFR 1.33(b) in order to indicate in the record that the fee was paid by a person having authority to bind the applicant; therefore, the PTOL-85B would also have to be signed by a patent practitioner when representation is required.

IV. Comments and Responses

The USPTO published a notice of proposed rulemaking (NPRM) on December 29, 2025, soliciting comments on the proposed changes to the rules of practice to require foreign applicants/inventors to be represented by a registered patent practitioner. *See* Required Use by Foreign Applicants and Patent Owners of a Patent Practitioner, 90 FR 60594. In response to the NPRM, the USPTO received nine (9) relevant comments from a range of stakeholders. The USPTO received two (2) comments from intellectual property (IP) organizations, one (1) comment from a regulatory organization, one (1) from a law firm, four (4) from individuals, and one (1) submitted anonymously. Overall, most of the comments were supportive of implementing a requirement for foreign applicants/inventors to be represented by a registered patent practitioner, and included specific suggestions and questions. A summary of the comments and the USPTO's responses thereto follow:

Comment #1: Several comments requested that the Office confirm that the requirement for using a U.S. practitioner would not impact the accordance of a filing date.

Response #1: This rule does not change the requirements for receiving a filing date. Under current procedure, an application which is received without a signature or with an improper signature is accorded a filing date as set forth in 37 CFR 1.53. Consistent with this procedure, when the new requirements herein are in effect, an application with a foreign-domiciled applicant but without the signature of a registered patent practitioner will be accorded a filing date under the conditions set forth in 37 CFR 1.53. Papers that do not include a practitioner's signature when one is required may require corrective action thereafter.

Comment #2: One comment suggested that the rule change should not apply to foreign domiciled inventors with U.S. citizenship and should not apply to applications with mixed-domicile applicant groups.

Response #2: The USPTO does not collect information on citizenship. Verification of citizenship would necessitate the collection of sensitive protected personal data such as birth certificates or passports, which in turn imparts a significant risk and administrative burden on the USPTO. The allocation of resources to processes for evaluating citizenship would impede the ability to allocate resources to the merits of examination. Notably, the requirement to be represented by a registered patent practitioner does not concern substantive issues of patentability, and the USPTO already requires U.S. citizens to be represented by a registered patent practitioner when an application names a juristic entity applicant. Regarding mixed-domicile applicant groups, providing such an exception would diminish the benefits associated with requiring representation by a registered patent practitioner. Additionally, providing an exception for mixed-domicile applicant groups would create a new incentive to misrepresent or manipulate the inventorship in an application, in that adding a single inventor-applicant could avoid the requirement to be represented by a registered patent practitioner.

Comment #3: Several comments requested that the Office provide a transition period and provide notice to applicants with information such as a link to obtain a practitioner list maintained by the Office.

Response #3: This rule becomes effective 120 days after publication in the Federal Register, which is an amount of advanced notice selected to permit foreign-domiciled applicants to obtain representation.

The OED register of active patent practitioners who are eligible to represent others before the USPTO is available here: https://oedci.uspto.gov/OEDCI/practitionerSearchEntry. The Office cannot aid in the selection of a patent practitioner.

Comment #4: Two comments requested that the Office clarify or review the definition of domicile in 37 CFR 1.9(p). One comment observes that a person may have multiple legal residences. Another observes that the phrase "principal place of business" is well-known in the context of a statute involving jurisdiction.

Response #4: New rule 37 CFR 1.9(p) provides that the term domicile as used in this chapter means the permanent legal place of residence of a natural person or the principal place of business of a juristic entity. The Office expects that it would be a rare occurrence for there to be a genuine ambiguity about whether a person is foreign-domiciled. In an instance in which a person has multiple legal residences both within and outside the United States, the phrase "permanent legal place of residence" in 37 CFR 1.9(p) can resolve any ambiguity because it is consistent with and would apply the same principles for determining permanent residence for purposes of being a U.S. tax resident. *See* 26 U.S.C. 7701. It is also noted that all juristic entities are already required to be represented by a registered patent practitioner, regardless of domicile.

Comment #5: One comment in favor of the proposed changes to the rules also requested that the Office revise 37 CFR 11.6(c) to discontinue reciprocity with Canadian practitioners.

Response #5: This rulemaking does not address the standards for becoming a registered patent practitioner, and at this time the USPTO does not plan to modify the reciprocity provision of 37 CFR 11.6(c).

Comment #6: One comment provides arguments contending that the new rules should not be applied to provisional applications, and that the benefits discussed herein are not relevant with respect to provisional applications.

Response #6: The effect of the requirement for representation on provisional applications is expected to be minimal. As discussed above, an application with a foreign-domiciled applicant but without the signature of a registered patent practitioner will be accorded a filing date under the conditions set forth in 37 CFR 1.53; this includes provisional applications. In the rare instances in which a filing in a provisional application requires processing, such as a petition to revive or a petition to change inventorship, representation will be required for foreign-domiciled applicants for the reasons set forth herein.

Comment #7: One comment argues that the USPTO should not go forward with the rule and that the rule is unfairly discriminatory and may cause foreign inventors to decide against filing patent applications in the U.S.

Response #7: The USPTO believes requiring foreign applicants/inventors to be represented by a registered patent practitioner will (1) treat foreign applicants/inventors and patent owners similarly to how U.S. applicants/inventors and patent owners are treated in other countries and harmonize U.S. practice with the rest of the world; (2) increase efficiency, as the USPTO spends extra resources to assist *pro se* applicants; (3) enable the USPTO to more effectively use available mechanisms to enforce compliance with statutory and regulatory requirements in patent matters; and (4) enhance the USPTO's ability to respond to false certifications, misrepresentations, and fraud. Although it is appreciated that some parties are opposed to the new requirement for representation, the above-stated benefits justify the implementation of these regulations.

V. Implementation

Beginning on the effective date of this final rule, patent applicants and patent owners whose domicile is not located within the United States (U.S.) or its territories (hereinafter foreign applicants/inventors and patent owners) are required to be represented by a registered patent practitioner. This requirement is applicable to all filings including new application filings, amendments, replies, and other papers received on or after the effective date, and there will not be a distinction based on the effective filing date of an application or the like. When an application is filed by a foreign inventor or applicant without the signature of a registered patent practitioner, the Office may mail a notice which also informs the inventor or applicant of the requirement for obtaining a practitioner. When necessary, based on the papers received, the notice will set a time period for response. The notice will include a link to a USPTO webpage to assist inventors/applicants in finding a registered patent practitioner.

Applications filed by foreign-domiciled applicants will be accorded a filing date, as this rule does not change the requirements for receiving a filing date. Under current procedure, an application which is received without a signature or with an improper signature is accorded a filing date as set forth in 37 CFR 1.53. Consistent with this procedure, when the new requirements herein are in effect, an application with a foreign-domiciled applicant but without the signature of a registered patent practitioner will be accorded a filing date under the conditions set forth in 37 CFR 1.53. Papers that do not include a practitioner's signature when one is required may necessitate corrective action.

The Application Data Sheet (ADS) and micro entity certification form will not be accepted if signed by an inventor or applicant whose domicile is in a foreign country. In such cases, the ADS and micro entity certification form must be signed by a registered patent practitioner.

When an application is filed by a foreign inventor/applicant and it includes an ADS that is not signed by a registered patent practitioner, the ADS will be treated as a transmittal letter in

accordance with 37 CFR 1.76(e). Thus, inventorship will not be set nor will benefit or priority claims be effective.

A foreign-domiciled inventor or applicant can pay the filing fees; however, to establish micro entity status, a registered patent practitioner must sign the micro entity certification. A fee may be paid in the micro entity amount only if it is submitted with, or subsequent to, the submission of a certification of entitlement to micro entity status. *See* 37 CFR 1.29(f) and MPEP 509.04(I). Therefore, in applications for which representation by a registered patent practitioner is required, payment of fees in micro entity amounts will require there to be representation by a registered patent practitioner. Payment of the basic filing fee, search fee, or examination fee after the original filing date will incur the surcharge set forth in 37 CFR 1.16(f), and for provisional applications payment of the basic filing fee after the original filing date will incur the surcharge set forth in 37 CFR 1.16(g).

The lack of entry of a paper due to the lack of signature of a registered patent practitioner may require corrective action, depending on the circumstances of the application and the type of paper at issue. For example, if an ADS is treated as a transmittal letter in accordance with 37 CFR 1.76(e), a benefit or priority claim presented therein will not be entered; depending on the timing of when a proper ADS is submitted, a petition for delayed benefit claim under 37 CFR 1.78(c) or (e) or a petition for delayed priority claim under 37 CFR 1.55(e) may be necessary.

As discussed above, in instances in which it is determined that representation by a registered patent practitioner is required, the Office may mail a notice which notifies the applicant of the determination. In instances where it is believed that this determination is erroneous, the applicant may submit a reply which addresses the issue of domicile. A reply which addresses the issue of domicile will be considered on the merits even when the applicant has not obtained representation, because such consideration is necessary to evaluate the propriety of the initial decision. In the event that a reply addresses the issue of domicile and also includes secondary remarks regarding other outstanding requirements, the USPTO will not necessarily

address the secondary remarks if the determination of foreign-domicile is maintained. For example, if an applicant receives a notice which states that representation by a registered patent practitioner is required based on the domicile of the applicant, and also states that the drawings contain formal defects, a reply may be submitted which traverses both determinations. In this example, if the remarks traversing the representation requirement are unpersuasive, the USPTO will not necessarily consider nor respond to the remarks regarding the drawing formalities because treating all remarks on the merits would undermine the efficacy of the representation requirement. In this scenario, the time period for response will continue to run.

Regarding the issue of traversing a determination that an applicant or patent owner is foreign-domiciled, it is noted that the USPTO may require evidence in order to change an initial determination. For example, in the event that an applicant is determined to be foreign-domiciled based on information available to the USPTO, the submission of a reply which merely includes conclusory and/or unsubstantiated statements about the domicile of the applicant will not be sufficient to change the determination.

The procedures regarding a *bona fide* attempt to advance an application to final action as set forth in 37 CFR 1.135(c) are not modified by this rulemaking.

Notwithstanding the ability to obtain a filing date, the representation requirement for foreign-domiciled applicants is applicable on the original date of filing. In some instances, the failure to comply with the representation requirement on the original filing date may cause a result which cannot be remediated in a particular application. For example, a request for the application not to publish as set forth in 37 CFR 1.213 or a request for prioritized examination under 37 CFR 1.102(e)(1) is required to be submitted *with* the original filing of the application. In the event that such a request is not accepted because it is improperly signed due to lack of compliance with the representation requirement, it is not possible to subsequently meet the requirements for the request in that application.

The payment of maintenance fees by a person or organization other than the patentee is specifically provided for by 37 CFR 1.366(a). Therefore, this rulemaking does not impose any new requirement with respect to the payment of maintenance fees, and the USPTO will not consider the domicile of a patent owner with regard to acceptance of maintenance fees.

VI. Rulemaking Considerations

A. *Administrative Procedure Act*

This final rule revises the procedures governing the representation of patent applicants and patent owners at the USPTO. The changes in this final rule do not change the substantive criteria of patentability. Therefore, the changes in this rulemaking involve rules of agency practice and procedure and/or interpretive rules and do not require notice-and-comment rulemaking, pursuant to 5 U.S.C. 553(b)(A)). *See Perez v. Mortg. Bankers Ass'n*, 575 U.S. 92, 97, 101 (2015) (explaining that interpretive rules "advise the public of the agency's construction of the statutes and rules which it administers" and do not require notice-and-comment when issued or amended); *Cooper Techs. Co. v. Dudas*, 536 F.3d 1330, 1336-37 (Fed. Cir. 2008) (5 U.S.C. 553, and thus 35 U.S.C. 2(b)(2)(B), do not require notice-and-comment rulemaking for "interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice"); *In re Chestek PLLC*, 92 F.4th 1105, 1110 (Fed. Cir. 2024) (noting that rule changes that "do[] not alter the substantive standards by which the USPTO evaluates trademark applications" are procedural in nature and thus "exempted from notice-and-comment rulemaking."); and *JEM Broadcasting Co. v. F.C.C.*, 22 F.3d 320, 328 (D.C. Cir. 1994) ("[T]he 'critical feature' of the procedural exception [in 5 U.S.C. 553(b)(A)] 'is that it covers agency actions that do not themselves alter the rights or interests of parties, although [they] may alter the manner in which the parties present themselves or their viewpoints to the agency.'" (quoting *Batterton v. Marshall*, 648 F.2d 694, 707 (D.C. Cir.

1980))). Nevertheless, the USPTO chose to seek public comment before implementing the rule to benefit from the public's input.

B. *Regulatory Flexibility Act*

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 or any other law, neither a Regulatory Flexibility Act analysis nor a certification under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601, et seq.) is required. *See* 5 U.S.C. 603. Nevertheless, the USPTO published an Initial Regulatory Flexibility Analysis (IRFA), along with the NPRM, on December 29, 2025 (90 FR 60594). The USPTO publishes this Final Regulatory Flexibility Analysis (FRFA) to complete its examination of the impact of the USPTO's changes to require foreign applicants/inventors and patent owners to be represented by a registered patent practitioner. The USPTO received no comments from the public directly applicable to the IFRA, as stated below in Item 2.

Items 1-6 below discuss the six items specified in 5 U.S.C. 604(a)(1)-(6) to be addressed in a FRFA. Item 6 below discusses alternatives considered by the USPTO.

1. A statement of the need for, and objectives of, the rule:

The USPTO is revising the rules to require that foreign applicants/inventors and patent owners be represented by a registered patent practitioner, as defined in 37 CFR 1.32(a)(1). An "applicant" is the person applying for a patent, and can be any inventor, joint inventor, legal representative, person to whom the inventor has assigned, person to whom the inventor is under an obligation to assign, or person who otherwise shows sufficient proprietary interest in the matter who is named as an applicant. Under this amended rule, foreign applicants/inventors and patent owners must be represented by a registered patent practitioner if at least one of the parties identified as an applicant or a patent owner has a domicile that is not located within the U.S. or its territories. A patent practitioner as defined in 37 CFR 1.32(a)(1) means a registered patent

attorney or registered patent agent under 37 CFR 11.6 or an individual given limited recognition under § 11.9(a) or (b) or § 11.16. When representation by a registered patent practitioner is required, papers such as amendments and other replies, application data sheets, information disclosure statements, or petitions will not be entered unless they are signed by a registered patent practitioner; papers that are required to be signed by a specific party, such as the inventor's oath or declaration under 37 CFR 1.63, are excluded. The requirement for a registered patent practitioner is applicable to all types of patent applications (i.e., utility, plant, design, etc.). This rule brings the United States in line with most other countries that require that such parties be represented by a licensed or registered person of that country. Additionally, this rule increases efficiency and enables the USPTO to more effectively use available mechanisms to enforce compliance by all foreign applicants/inventors and patent owners with U.S. statutory and regulatory requirements in patent matters, and enhances the USPTO's ability to respond to false certifications, misrepresentations, and fraud. The rule is also amended to require that a patent owner who is a juristic entity must be represented by a registered patent practitioner. The rule previously required a juristic entity who was the applicant to be represented by a registered patent practitioner, and has now been expanded to make explicit a similar requirement for patent owners.

2. *A statement of the significant issues raised by the public comments in response to the IRFA, a statement of the assessment of the Agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments:*

The USPTO did not receive any public comments in response to the IRFA. However, the USPTO received comments about the proposed requirement for representation, which are discussed in the preamble.

3. *The response of the Agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed*

statement of any change made to the proposed rule in the final rule as a result of the comments:

The USPTO did not receive any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule.

4. *A description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available:*

The Small Business Administration (SBA) small business size standards that are applicable to most analyses conducted to comply with the RFA are set forth in 13 CFR 121.201. These regulations generally define small businesses as those with fewer than a specified maximum number of employees or less than a specified level of annual receipts for the entity's industrial sector or North American Industry Classification System (NAICS) code. As provided by the RFA, and after consulting with the SBA, the USPTO formally adopted an alternate size standard for the purpose of conducting an analysis or making a certification under the RFA for patent-related regulations. *See* Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations, 71 FR 67109 (Nov. 20, 2006), 1313 Off. Gaz. Pat. Office 60 (Dec. 12, 2006). The USPTO's alternate small business size standard is SBA's previously established size standard that identifies the criteria entities must meet to be entitled to pay reduced patent fees. *See* 13 CFR 121.802.

If patent applicants assert or certify entitlement for reduced patent fees, the USPTO captures this data in its patent application data repository (formerly the Patent Application Locating and Monitoring (PALM) system and now called the One Patent Service Gateway (OPSG) system), which tracks information on each patent application submitted to the USPTO.

Unlike the SBA small business size standards set forth in 13 CFR 121.201, the size standard for the USPTO is not industry specific. The USPTO's definition of a small business concern for RFA purposes is a business or other concern that: (1) meets the SBA's definition of a ''business concern or concern'' set forth in 13 CFR 121.105; and (2) meets the size standards set

forth in 13 CFR 121.802 for the purpose of paying reduced patent fees, namely, an entity: (a) whose number of employees, including affiliates, does not exceed 500 persons; and (b) which has not assigned, granted, conveyed, or licensed (and is under no obligation to do so) any rights in the invention to any person who made it and could not be classified as an independent inventor, or to any concern that would not qualify as a nonprofit organization or a small business concern under this definition. *See* Business Size Standard for Purposes of United States Patent and Trademark Office Regulatory Flexibility Analysis for Patent-Related Regulations, 71 FR at 67112 (Nov. 20, 2006), 1313 Off. Gaz. Pat. Office at 63 (Dec. 12, 2006). Thus, for the purpose of this analysis, the USPTO defines small entities to include applicants/inventors and patent owners who pay "small" or "micro" entity fees at the USPTO.

In fiscal year (FY) 2022, the USPTO received 512,038 patent applications.[1] As discussed earlier, this final rule impacts those applications from foreign applicants/inventors or patent owners who are not represented by a registered patent practitioner. An applicant is considered to be a foreign applicant/inventor or patent owner if at least one party who was identified as an applicant or a patent owner had a domicile that was not located within the U.S. or its territories.

As seen in Table 1 below, of the total 512,038 patent applications filed in FY 2022, 215,459 (42.1%) were filed by U.S. applicants/inventors and patent owners, and 296,579 (57.9%) were filed by foreign applicants/inventors and patent owners.

Table 1

Filings from foreign or U.S. applicants as a percentage of total filings

Applicant	FY 2022	Percentage
US	215,459	42.1%
Foreign	296,579	57.9%
Total	**512,038**	100.0%

[1] Fiscal year (FY) 2022 data is being used for this analysis to correspond with the most current available estimates of legal costs as published by American Intellectual Property Law Association in its 2023 Report on the Economic Survey. Patent application data show that filing trends in FY 2023 and FY 2024 have been consistent with FY 2022, with filings in FY 2023 totaling 516,915 and filings in FY 2024 totaling 527,538.

Table 2 below shows the number of applications that were filed without a registered patent practitioner (i.e., *pro se*) and those that were filed with a registered patent practitioner, in addition to the entity status of the applicant(s). Of the total 296,579 filings made by a foreign applicant/inventor or patent owner, 295,362 were represented by a registered patent practitioner (foreign represented) and 1,217 were not represented by a registered patent practitioner (foreign *pro se*).[2] The 1,217 foreign *pro se* applications will be impacted by the requirement to retain representation by a registered patent practitioner under this final rule.

The USPTO anticipates that this final rule will not have a substantial impact on foreign small entities. Of the total 295,362 foreign represented applications, 75,111 are considered to be small entities for the purposes of this analysis because they paid the "small" or "micro" entity fee ("foreign represented small entities"), and of the 1,217 foreign *pro se* applications, 1,102 are considered to be small entities because they paid the "small" or "micro" entity fee ("foreign *pro se* small entities"). The USPTO acknowledges that representation status in an application is dynamic, and some number of applicants change their status of representation after filing by either retaining a registered patent practitioner or separating from a registered patent practitioner and proceeding *pro se*. For the purposes of this analysis, the USPTO assumes that the 1,102 applications filed by foreign *pro se* small entities did not change their representation status and thus will be subject to the requirement to be represented by a registered patent practitioner. This final rule is not expected to significantly impact foreign small entities, as the vast majority are represented by a registered patent practitioner. Only 1,102 foreign *pro se* small entities, or 1.4% of the 76,213 total foreign small entities filing patent applications, will be affected.

Table 2

Application Type	Total # of applications filed in FY 2022 (per OPPDA data obtained in June 2025)

[2] An application is determined to be *pro se* if there are no current attorney(s) associated with the application or if no attorney(s) has been directly associated with the application over the application's prosecution history.

	Undisc.	Small	Micro	**Total**	**Percentage**	
US *Pro Se*	1,664	1,747	2,180	**5,591**	1.09%	**215,459**
US Represented	129,805	67,318	12,745	**209,868**	40.99%	
Foreign *Pro Se*	115	490	612	**1,217**	.24%	**296,579**
Foreign Represented	220,251	60,720	14,391	**295,362**	57.86%	
Totals	**351,835**	**130,275**	**29,928**	**512,038**	100.0%	

Any registered patent practitioner retained by the foreign applicants/inventors and patent owners as a result of this final rule will be required to be a registered patent attorney or registered patent agent under 37 CFR 11.6 or an individual given limited recognition under § 11.9(a) or (b) or § 11.16.

5. *A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record:*

The final rule imposes no new reporting or recordkeeping requirements. Compliance with the rule will be enforced by requiring an appropriate signature on papers submitted in patent matters.

6. *A description of the steps the Agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the Agency which affect the impact on small entities was rejected:*

The USPTO chose the alternative of requiring foreign applicants/inventors and patent owners to be represented by a registered patent practitioner because it will enable the USPTO to achieve its goals effectively and efficiently. Those goals are to (1) enable the USPTO to more effectively use available mechanisms to enforce compliance by all foreign applicants/inventors

and patent owners with U.S. statutory and regulatory requirements in patent matters, and (2) enhance the USPTO's ability to respond to false certifications, misrepresentations, and fraud. Additionally, the final rule brings the United States in line with most other countries that require that such parties be represented by a licensed or registered person of that country.

Due to the difficulty in quantifying the intangible benefits associated with the final rule, the USPTO provides a discussion of the qualitative benefits to patent applicants/inventors and patent owners. The primary benefits of the final rule are ensuring compliance by all foreign patent applicants/inventors and patent owners with U.S. statutory and regulatory requirements in patent matters, and facilitating fraud mitigation and protecting the integrity of the U.S. patent system. The USPTO has noticed an increase in the number of false micro entity certifications to claim a reduction in fees and other false certification documents being filed. False certifications unjustly diminish the monetary resources of the USPTO, and false certifications on petitions or requests to expedite examination result in applications being unjustly advanced out of turn. Requiring submissions to be made by registered patent practitioners subject to the USPTO Rules of Professional Conduct and concomitant disciplinary sanctions imposed by the USPTO Director will make it less likely that the submissions will be signed by an unauthorized party or contain inaccurate or fraudulent statements, particularly with regard to any certification of micro entity status to claim a reduction in fees and any certification relevant to expediting the application.

The final rule also addresses the problem of patent application pendency. *Pro se* applications generally require additional processing by the OPAP because the application papers are often not in condition for publication, examination, or both. Additionally, *pro se* applications usually require patent examiners to spend additional examination time on procedural matters, thereby increasing overall patent application pendency. This final rule will help allocate USPTO resources to the merits of examination and, accordingly, decrease patent application processing times. Requiring foreign applicants/inventors and patent owners to use registered patent practitioners will increase efficiency, as the applications will be in better form for examination.

Thus, the final rule will provide qualitative value to all applicants/inventors and patent owners because this rule will help allocate USPTO resources to the merits of examination and, accordingly, generally decrease processing times for all patent applications.

The RFA requires agencies to consider the economic impact of their regulatory proposals on small entities, specifically U.S. small businesses, small governmental jurisdictions and small organizations. This final rule will require all applicants/inventors and patent owners, in which at least one party identified as the applicant or patent owner has a foreign domicile, to be represented by a registered patent practitioner. Although there will be some number of U.S.-domiciled applicants/inventors and patent owners that will be affected because at least one party identified as the applicant or patent owner has a foreign domicile, the USPTO estimates that the number of foreign *pro se* small entities impacted by this rule (1,102) is small when compared to the 76,213 total foreign small entities that file patent applications. The costs incurred by the 1,102 foreign *pro se* small entities will vary depending on the nature of legal services provided and complexity of the application.

Tables 3, 4, and 5 below provide the estimated costs for a U.S. patent practitioner to prosecute an application based on professional rates as reported by the American Intellectual Property Law Association in the 2023 Report on the Economic Survey.[3] The professional rates[4] shown below are the median charges in FY 2022 for legal services rendered for a utility application.[5] The tables do not include services for which legal counsel is not required (such as payment of maintenance fees) or services that are not part of prosecution (such as *ex parte* reexamination, novelty search, validity and infringement opinions, and reference management).

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[3] *See* AM. INTELLECTUAL PROP. LAW ASS'N, REPORT OF THE ECONOMIC SURVEY 43 (2023).
[4] Copy, drawing, and government fees are not included in the rates.
[5] The Report on the Economic Survey provides professional rates for legal services rendered only in utility applications. Because the professional rates in utility applications typically represent the upper range of legal costs, these rates will be used as a proxy to calculate the costs for legal services rendered for all applications, including plant and design applications.

The figures in Tables 3 and 4 show the estimated legal cost for prosecuting applications that are of minimal complexity as well as applications that are relatively complex.

Table 3 below provides the estimated cost to impacted entities if a U.S. patent practitioner is retained prior to filing of a non-provisional application. These cases include applications of foreign origin where no substantive direction is provided by the foreign attorney, and thus the patent practitioner would be required to provide substantive legal advice to prosecute the application, including legal services connected with preparing, filing, and prosecuting an application. Based on the total estimated number of applications filed by foreign applicants/inventors and patent owners that are also considered to be small entities, the total legal cost for non-provisional applications to comply with this final rule is estimated to range from $13,124,820 to $13,334,200 for minimal complexity applications, to $16,430,820 to $19,395,200 for relatively complex applications.

Table 3

Cost for Legal Services by Performed U.S. Patent Practitioners (FY 22)
Patents of U.S. Origin

Service	Cost for Minimal Complexity Applications	Cost for Relatively Complex Applications (biotech/chemical; electrical/computer; mechanical)
Original (not divisional, continuation, or CIP) non-provisional application on invention	$8,000	$10,000 to $12,000
Application amendment/argument	$2,000	$3,000 to $3,500
Issuing an allowed application	$750	$750
Preparing and filing Information Disclosure Statement (IDS), less than 50 references and more than 50 references	$360 to $550	$360 to $550
Patent Term Adjustment calculation	$400	$400
Formalities, including preparing and filing formal declarations, assignment, and powers of attorney, responding to pre-examination notices and preparing papers to make corrections	$400	$400
Cost	**$11,910 to $12,100**	**$14,910 to $17,600**
Pro Se Foreign Applicants/Inventors and Patent Owners (Small Entities) Non-Provisional	1,102	1,102
Total Cost	**$13,124,820 to $13,334,200**	**$16,430,820 to $19,395,200**

Table 4 below provides the estimated cost to impacted entities if a U.S. patent practitioner is retained to file a non-provisional application of foreign origin that is in condition for filing and in which the foreign attorney provides substantive direction. In these cases, the U.S. patent practitioner would provide only minimal legal services connected with the initial filing of an application and the subsequent filing of other documents. Based on the total estimated number of applications filed by foreign applicants/inventors and patent owners that are also considered to be small entities, the total legal cost for a non-provisional application to comply with this final rule is estimated to range from $4,336,370 to $4,545,750 for minimal complexity applications, to $5,190,420 to $5,399,800 for relatively complex applications.

Table 4

Cost for Legal Services Performed by U.S. Patent Practitioners (FY 22)
Patents of Foreign Origin

Service	Cost for Minimal Complexity Applications	Cost for Relatively Complex Applications (biotech/chemical; electrical/computer; mechanical)
Filing in USPTO, received ready for filing	$1,200	$1,200
Application amendment/argument, where foreign counsel or client provides detailed response instructions	$1,225	$2,000
Issuing an allowed application	$750	$750
Preparing and filing Information Disclosure Statement (IDS), less than 50 references and more than 50 references	$360 to $550	$360 to $550
Formalities, including preparing and filing formal declarations, assignment, and powers of attorney, responding to pre-examination notices and preparing papers to make corrections	$400	$400
Total Cost	**$3,935 to $4,125**	**$4,710 to $4,900**
Pro Se Foreign Applicants/Inventors and Patent Owners (Small Entities) Non-Provisional	1,102	1,102
Total Cost	**$4,336,370 to $4,545,750**	**$5,190,420 to $5,399,800**

Table 5 below provides a list of services that may be provided to impacted entities before or during prosecution, but are dependent on the nature of the application. The prosecution of a patent application is highly variable and a particular application may or may not require any of these services. If these services are provided, then the costs below would be added to the total

legal costs in Tables 3 or 4, as applicable. The table below provides the percentage of all applications that have utilized these services.

Table 5

Service	Cost	Applications Utilizing Service	Percentage
Appeal to Board with/without oral argument	$5,000 to $8,000	8,205	2%
Preparing and filing formal drawings	$600	30,822	6%
Preparing for and conducting examination interview	$1,000	176,908	35%
Providing a continuation recommendation (including proposed claim strategy)	$1,000	151,130	30%
Filing previously prepared US applications as PCT application in US	$1,090	57,112	11%
Entering National Stage in US Receiving Office from foreign Origin PCT application	$1,200	108,855	21%
Provisional application	$3,900 to $5,000	147,275	29%

As seen above, the USPTO estimates that only 1,102 (or 1.4%) foreign *pro se* small entities will be impacted by this final rule. This is a very small number when compared to the 76,213 total foreign small entities that file patent applications. Although the number of impacted small entities is not expected to be substantial, the economic impact varies depending on the nature of legal services provided and complexity of the application. Because prosecution of patent applications is highly variable, the legal costs incurred by the 1,102 foreign *pro se* small entities would depend on whether the application is of U.S. origin or foreign origin, with applications of U.S. origin incurring more cost than those of foreign origin, and the level of complexity of the application, with relatively complex applications incurring higher costs than minimally complex applications. Legal costs would increase if any of the additional available services are utilized before or during prosecution.

The USPTO considered the alternative of taking no action and maintaining the status quo ("Alternative 1"). Alternative 1 was rejected because the USPTO has determined that the requirement that foreign applicants/inventors and patent owners be represented by a registered

patent practitioner is needed to accomplish the stated objectives to increase efficiency and enable the USPTO to more effectively use available mechanisms to enforce compliance with U.S. statutory and regulatory requirements in patent matters, and to enhance the USPTO's ability to respond to false certifications, misrepresentations, and fraud.

C. *Executive Order 12866 (Regulatory Planning and Review)*

This rulemaking has been determined to be not significant for purposes of Executive Order 12866 (September 30, 1993).

D. *Executive Order 13563 (Improving Regulation and Regulatory Review)*

The USPTO has complied with Executive Order 13563 (January 18, 2011). Specifically, and as discussed above, the USPTO has, to the extent feasible and applicable: (1) reasonably determined that the benefits of the rule justify its costs; (2) tailored the rule to impose the least burden on society consistent with obtaining the agency's regulatory objectives; (3) selected a regulatory approach that maximizes net benefits; (4) specified performance objectives; (5) identified and assessed available alternatives; (6) involved the public in an open exchange of information and perspectives among experts in relevant disciplines, affected stakeholders in the private sector, and the public as a whole, and provided online access to the rulemaking docket; (7) attempted to promote coordination, simplification, and harmonization across government agencies and identified goals designed to promote innovation; (8) considered approaches that reduce burdens while maintaining flexibility and freedom of choice for the public; and (9) ensured the objectivity of scientific and technological information and processes.

E. *Executive Order 14192 (Deregulation)*

This regulation is not an Executive Order 14192 regulatory action because it is not significant under Executive Order 12866.

F. *Executive Order 13132 (Federalism)*

This rulemaking pertains strictly to federal agency procedures and does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (August 4, 1999).

G. ***Executive Order 13175 (Tribal Consultation)***

This rulemaking will not: (1) have substantial direct effects on one or more Indian tribes; (2) impose substantial direct compliance costs on Indian tribal governments; or (3) preempt tribal law. Therefore, a tribal summary impact statement is not required under Executive Order 13175 (November 6, 2000).

H. ***Executive Order 13211 (Energy Effects)***

This rulemaking is not a significant energy action under Executive Order 13211 because this rulemaking is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Therefore, a Statement of Energy Effects is not required under Executive Order 13211 (May 18, 2001).

I. ***Executive Order 12988 (Civil Justice Reform)***

This rulemaking meets applicable standards to minimize litigation, eliminate ambiguity, and reduce burden as set forth in sections 3(a) and 3(b)(2) of Executive Order 12988 (February 5, 1996).

J. ***Executive Order 13045 (Protection of Children)***

This rulemaking does not concern an environmental risk to health or safety that may disproportionately affect children under Executive Order 13045 (April 21, 1997).

K. ***Executive Order 12630 (Taking of Private Property)***

This rulemaking will not effect a taking of private property or otherwise have taking implications under Executive Order 12630 (March 15, 1988).

L. ***Congressional Review Act***

Under the Congressional Review Act provisions of the Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801, *et seq.*), the USPTO will submit a report

containing the final rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the Government Accountability Office. The changes in this rulemaking are not expected to result in an annual effect on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, this rulemaking is not expected to result in a ''major rule'' as defined in 5 U.S.C. 804(2).

M. ***Unfunded Mandates Reform Act of 1995***

The changes set forth in this rulemaking do not involve a Federal intergovernmental mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, of $100 million (as adjusted) or more in any one year, or a Federal private sector mandate that will result in the expenditure by the private sector of $100 million (as adjusted) or more in any one year, and will not significantly or uniquely affect small governments. Therefore, no actions are necessary under the provisions of the Unfunded Mandates Reform Act of 1995. *See* 2 U.S.C. 1501 *et seq*.

N. ***National Environmental Policy Act of 1969***

This rulemaking will not have any effect on the quality of the environment and is thus categorically excluded from review under the National Environmental Policy Act of 1969. *See* 42 U.S.C. 4321 *et seq*.

O. ***National Technology Transfer and Advancement Act of 1995***

The requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) are not applicable because this rulemaking does not contain provisions that involve the use of technical standards.

P. ***Paperwork Reduction Act of 1995***

The Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq*.) requires that the USPTO consider the impact of paperwork and other information collection burdens imposed on the public. The collection of information involved in this final rule has been reviewed and previously approved by OMB under control number 0651-0035. The USPTO is submitting an update to the 0651-0035 information collection in the form of a non-substantive change request.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

Q. *E-Government Act Compliance*

The USPTO is committed to compliance with the E-Government Act to promote the use of the internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Biologics, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons stated in the preamble, the USPTO amends 37 CFR part 1 as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2), unless otherwise noted.

2. Amend § 1.9 by adding paragraph (p) to read as follows:

§ 1.9 Definitions.

* * * * *

(p) The term domicile as used in this chapter means the permanent legal place of residence of a natural person or the principal place of business of a juristic entity.

3. Revise § 1.31 to read as follows:

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

(a) An applicant for patent or patent owner may file and prosecute the applicant's or patent owner's own case, or the applicant or patent owner may give power of attorney so as to be represented by one or more patent practitioners or joint inventors, except that the following persons or entities must be represented by a patent practitioner:

(1) a juristic entity (e.g., organizational assignee);

(2) an applicant as defined in § 1.42, in which the domicile of at least one of the parties identified as the applicant in the application is not located within the United States or its territories; and

(3) a patent owner, in which the domicile of at least one of the parties identified as the patent owner is not located within the United States or its territories.

(b) The Office cannot aid in the selection of a patent practitioner.

4. Amend § 1.32 by revising paragraph (a)(1) to read as follows:

§ 1.32 Power of attorney.

(a) *** * ***

(1) *Patent practitioner* means a practitioner registered under § 11.6 or an individual given limited recognition under § 11.9(a) or (b) or § 11.16. Only these persons are permitted to represent others before the Office in patent matters. An attorney or agent registered under § 11.6(d) may only act as a practitioner in design patent applications or other design patent matters or design patent proceedings.

* * * * *

5. Amend § 1.33 by revising paragraph (b)(3) to read as follows:

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

* * * * *

(b) * * *

(3) The applicant (§ 1.42) or patent owner. Unless otherwise specified, all papers submitted on behalf of a juristic entity, an applicant as defined in § 1.42 in which the domicile of at least one of the parties identified as the applicant is not located within the United States or its territories, or a patent owner in which the domicile of at least one of the parties identified as the patent owner is not located within the United States or its territories must be signed by a patent practitioner.

* * * * *

John A. Squires,
Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

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