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#### SUPPLEMENTARY INFORMATION:

#### History

On Wednesday, August 12, 2009, the FAA published a notice of proposed rulemaking in the **Federal Register** to establish Class E airspace at Noorvik, AK (74 FR 40535). Subsequent to publication, the FAA noted that the title erroneously referred to this action as a revision. The remainder of the document was clear, that this was a proposal to establish controlled airspace at Noorvik, AK. With the exception of editorial changes, and the changes described above, this rule is the same as that proposed in the NPRM. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received. The rule is adopted as proposed.

The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9T, *Airspace Designations and Reporting Points*, signed August 27, 2009, and effective September 15, 2009, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

#### The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at the Robert (Bob) Curtis Memorial Airport, AK. This Class E airspace is established to accommodate aircraft executing new instrument procedures, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at the Robert (Bob) Curtis Memorial Airport, Noorvik, AK.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Because this is a routine matter that will only affect air

traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Robert (Bob) Curtis Memorial Airport and represents the FAA’s continuing effort to safely and efficiently use the navigable airspace.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

##### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9T, *Airspace Designations and Reporting Points*, signed August 27, 2009, and effective September 15, 2009, is amended as follows:

*Paragraph 600 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.*

\* \* \* \* \*

#### AAL AK E5 Noorvik, AK [New]

Noorvik, Robert (Bob) Curtis Memorial Airport, Noorvik, AK  
(Lat. 66°49’03” N., long. 161°01’20” W.)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of the Robert (Bob) Curtis Memorial Airport, AK.

\* \* \* \* \*

Issued in Anchorage, AK, on October 15, 2009.

**Michael A. Tarr,**

*Acting Manager, Alaska Flight Services Information Area Group.*

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## DEPARTMENT OF COMMERCE

### United States Patent and Trademark Office

#### 37 CFR Parts 2 and 11

[Docket No. PTO–T–2008–0021]

RIN 0651–AC26

#### Changes in Requirements for Signature of Documents, Recognition of Representatives, and Establishing and Changing the Correspondence Address in Trademark Cases

**AGENCY:** United States Patent and Trademark Office, Commerce.

**ACTION:** Final rule.

**SUMMARY:** The United States Patent and Trademark Office (“Office”) is revising the Trademark Rules of Practice to set forth the requirements for signature of documents filed in the Office, recognition of representatives, and establishing and changing the correspondence address in trademark cases.

**DATES:** This rule is effective December 28, 2009.

**SUPPLEMENTARY INFORMATION:** As noted above, the Office is revising the Trademark Rules of Practice (37 CFR Part 2) to set forth the requirements for signature of documents filed in the Office, recognition of representatives, and establishing and changing the correspondence address in trademark cases. The purpose of the rule is to codify and clarify current practice. Practice before the Trademark Trial and Appeal Board (“TTAB”) is largely unaffected by the rule.

References below to “the Act” or “the Trademark Act” refer to the Trademark Act of 1946, 15 U.S.C. 1051 *et seq.*, as amended. References to “TMEP” or “*Trademark Manual of Examining Procedure*” refer to the 5th edition, September 2007. References to the “TBMP” or “*Trademark Trial and Appeal Board Manual of Procedure*” refer to the 2nd edition, Rev. 1, March

12, 2004. References to a “party to a proceeding” refer to a party to a proceeding before the TTAB, e.g., an opposer, cancellation petitioner, or party to an interference or concurrent use proceeding.

On August 14, 2008, the Office published a final rule that, *inter alia*, removed §§ 10.14 and 10.18 of this chapter and replaced them with new §§ 11.14 and 11.18; added a definition of “attorney” to § 11.1 of this chapter; added § 11.14(f), setting forth the requirements and establishing a fee for filing a request for reciprocal recognition under § 11.14(c) of this chapter; and changed cross-references in several of the rules in parts 2 and 7 of this chapter, effective September 15, 2008.

See *Changes to Representation of Others Before the United States Patent and Trademark Office*, 73 FR 47650 (Aug. 14, 2008).

The cross-references in this notice have been changed accordingly.

The Office has recently published another final rule, *Miscellaneous Changes to Trademark Rules of Practice*, RIN 0651-AB89, 73 FR 67759 (November 17, 2008). The changes made therein are reflected in §§ 2.62, 2.74, 2.87, 2.146(c), 2.153, 2.163, 2.167, 2.171(b)(1), and 2.184 below.

## Overview of Office Practice

### Persons Authorized To Represent Others

Under 37 CFR 11.14 of this chapter, only the following individuals may represent an applicant, registrant, or party to a proceeding before the Office in a trademark case:

- An attorney as defined in § 11.1 of this chapter, i.e., an attorney who is a member in good standing of the bar of the highest court of a state in the United States;
- A Canadian patent agent who is registered and in good standing as a patent agent under § 11.6(c) for the limited purpose of representing parties located in Canada;
- A Canadian attorney or agent who has been granted recognition by the Director of the Office of Enrollment and Discipline of the United States Patent and Trademark Office (“OED Director”) to represent parties located in Canada, pursuant to § 11.14(f) of this chapter; or
- An individual who is not an attorney but was recognized to practice before the Office in trademark cases under this chapter prior to January 1, 1957.

See *Trademark Manual of Examining Procedure* (“TMEP”) sections 602 and 602.06 *et seq.*

An individual who does not meet the requirements of § 11.14 of this chapter cannot: Prepare documents to be filed in the Office; sign amendments, responses to Office actions, petitions to the Director under § 2.146, letters of express abandonment, or notices of change of correspondence address for applications or registrations; authorize issuance of examiner’s amendments and priority actions; or otherwise represent an applicant, registrant, or party to a proceeding in the Office. 5 U.S.C. 500(d); 37 CFR 11.14(e); TMEP sections 602.03 and 605.02.

### Recognition of Representative

To be recognized as a representative, a practitioner qualified to practice under § 11.14 of this chapter (“qualified practitioner”) may:

- File a power of attorney signed by the applicant, registrant, or party to a proceeding in a trademark case, or by someone with legal authority to bind the applicant, registrant, or party (e.g., a corporate officer or general partner of a partnership);
- Sign a document on behalf of an applicant, registrant, or party to a proceeding who is not already represented by a qualified practitioner from a different firm; or
- Appear in person on behalf of an applicant, registrant, or party to a proceeding who is not already represented by a qualified practitioner from a different firm.

37 CFR 2.17(c); TMEP sections 602.01 and 602.07.

Once the Office has recognized a qualified practitioner as the representative of an applicant or registrant, the Office will communicate and conduct business only with that practitioner, or with another qualified practitioner from the same firm. The Office will not conduct business directly with the applicant or registrant, or with another qualified practitioner from a different firm, unless the applicant or registrant files a new power of attorney or revocation of the previous power. TMEP sections 601.02, 602.07, and 603.02(a). A motion to withdraw is generally required when a qualified practitioner recognized by the TTAB will no longer be representing a party to a proceeding. *Trademark Trial and Appeal Board Manual of Procedure* (“TBMP”) section 513.

For purposes of recognition as a representative, the Office considers a power of attorney to end when the mark is registered, when ownership changes, or when the application is abandoned. TMEP section 602.01. An appointment of domestic representative, however, remains in effect unless specifically

revoked or supplanted by appointment of a new domestic representative.

After a change in ownership has been recorded, if a new qualified practitioner appears on behalf of the new owner, the Office will communicate and conduct business with that practitioner even absent a new power of attorney or revocation of the previous power. If the previously recognized practitioner appears on behalf of the new owner (which might occur when the new owner is a related company), the Office will continue to conduct business and correspond with that practitioner.

### Establishing the Correspondence Address for Application or Registration

Upon receipt of a new application, the Office enters the correspondence address in accordance with the following guidelines:

- If the application is transmitted by a qualified practitioner, or includes a power of attorney designating a qualified practitioner, the Office will send correspondence to the practitioner;
- If an application is not being prosecuted by a qualified practitioner, but the applicant designates in writing a correspondence address other than its own address, the Office will send correspondence to that address if appropriate;
- If an application is not being prosecuted by a qualified practitioner and the applicant has not designated a correspondence address, but a domestic representative has been appointed, the Office will send correspondence to the domestic representative if appropriate; or
- If the application is not being prosecuted by a qualified practitioner, no domestic representative has been appointed, and the applicant has not designated a different address for correspondence, the Office will send correspondence directly to the applicant at its address of record.

37 CFR 2.18; TMEP section 603.01.

The Office reestablishes the correspondence address in accordance with these guidelines upon the examination of an affidavit under section 8, 12(c), 15, or 71 of the Trademark Act, renewal application under section 9 of the Act, or request for amendment or correction of a registration under section 7 of the Act. TMEP section 603.02(c). Due to the length of time that may elapse between registration and filings under sections 7, 8, 9, 12(c), 15, and 71 of the Act (which could be 10 years or more), the Office will recognize a qualified practitioner who transmits such a filing even absent a new power of attorney or revocation of a previous power.

### *Changing the Correspondence Address in an Application or Registration*

Once the correspondence address is established as discussed above, the Office will generally send correspondence to that address until a written request to change the address is submitted, signed by the practitioner whom the Office has recognized, or by the applicant or registrant or someone with legal authority to bind the applicant or registrant (e.g., a corporate officer or general partner of a partnership) if the applicant or registrant is not represented by a qualified practitioner. 37 CFR 2.18(b); TMEP sections 601.02, 602.07, and 603.02(a).

Once the Office recognizes a qualified practitioner as the representative of an applicant or registrant, only that practitioner or another qualified practitioner from the same firm may sign a request to change the address, unless the applicant or registrant files a new power of attorney or revocation of the previous power, or the recognized practitioner files a request to withdraw. TMEP sections 603.02(a) and 605.02.

If a qualified practitioner transmits documents on behalf of an applicant or registrant who is not already represented by another qualified practitioner from a different firm, the Office will construe this as including a request to change the correspondence address to that of the practitioner. TMEP section 603.02(a).

### *Documents Must Be Properly Signed*

Because an individual who is not authorized under § 11.14 may not represent an applicant, registrant, or party to a proceeding before the Office, the Office will not act on documents that are not properly signed. TMEP sections 602.03 and 605.02. When it is unclear whether a proper person has signed a response to an Office action, the Office will notify the applicant or registrant that the response is incomplete. See TMEP sections 605.05(a) and 712.03 regarding notices of incomplete response. When it is unclear whether a proper person has signed a document other than a response to an Office action, the Office will notify the applicant or registrant that no action will be taken on the document unless the applicant or registrant either establishes the signatory's authority or submits a properly signed document. See TMEP section 605.05.

### *Unauthorized Practice*

When the Office learns that a person who is not qualified under § 11.14 is

acting as the representative of an applicant, registrant, or party to a proceeding, the Office will notify the affected applicant, registrant, or party that the individual is not entitled to practice before the Office in trademark matters and therefore may not represent the applicant, registrant, or party; that any power of attorney is void *ab initio*; that the individual may not sign responses to Office actions; and that all correspondence will be sent to the domestic representative if appropriate or, alternatively, to the applicant, registrant, or party at its address of record. If the Office receives a response signed by such an unqualified person, the response will be treated as incomplete. This same practice is followed when the Office learns that a practitioner has been suspended or excluded from practice before the Office.

### **Rule Changes**

#### *Terminology*

*Comment:* One commenter asserts that the terms "registrant," "owner," "owner of a mark" and "owner of the registration" are used interchangeably throughout the rules, and requests clarification.

*Response:* These terms are not interchangeable. "Registrant" is broader than "owner," as it embraces the legal representatives, predecessors, successors and assigns of the current owner, pursuant to section 45 of the Trademark Act.

In rules that govern the representation of others and the establishment of the correspondence address, the Office has used the broader term "registrant," to encompass all parties who could be represented or receive correspondence in connection with an application, registration, or proceeding in the Office. In rules that govern the proper party to sign and file affidavits under sections 8 and 15 of the Act, and requests for correction, amendment or surrender under section 7 of the Act, the more specific term "owner" is used. In § 2.184, which governs renewal applications, the term "registrant" is used for consistency with section 9 of the Act. Section 9, as amended by the Trademark Law Treaty Implementation Act, does not require that a renewal application be filed in the name of the owner of the registration. Therefore, if a renewal applicant is not the owner of record, the Office does not require that the renewal applicant show continuity of title from the original registrant before granting renewal. See TMEP section 1606.06.

### *Discussion of Specific Rules*

A proposed rule was published in the **Federal Register** on June 12, 2008, at 73 FR 33345, and in the *Official Gazette* on July 8, 2008. The Office received comments from one law firm and one organization. These comments are posted on the Office's Web site at [http://www.uspto.gov/web/offices/pac/dapp/opla/comments/tm\\_comments2008aug20a/index.htm](http://www.uspto.gov/web/offices/pac/dapp/opla/comments/tm_comments2008aug20a/index.htm), and are addressed below.

Where appropriate, the Office has reworded and/or reorganized the rules for clarity, and added headings to facilitate navigation through the rules.

Section 2.17(a) is redesignated as § 2.17(b)(2).

Section 2.17(b) is redesignated as § 2.17(f).

Section 2.17(c) is redesignated as § 2.17(b), and revised to provide that the Office will recognize a qualified practitioner who signs a document or appears in person in a trademark case only if the applicant or registrant is not already represented by a qualified practitioner from a different firm. This is consistent with TMEP sections 602.01 and 602.07.

Section 2.17(c) sets forth the requirements for powers of attorney. A power must: (1) Designate by name at least one practitioner qualified to practice under 37 CFR § 11.14; and (2) be signed by the individual applicant, registrant, or party to a proceeding pending before the Office, or by someone with legal authority to bind the applicant, registrant, or party (e.g., a corporate officer or general partner of a partnership). Once an applicant, registrant, or party to a proceeding has designated a qualified practitioner(s), that practitioner may sign an associate power of attorney appointing another qualified practitioner(s) as an additional person(s) authorized to represent the applicant, registrant, or party to a proceeding. This is consistent with TMEP sections 602.01 and 602.01(b).

Section 2.17(c)(2) provides further that if the applicant, registrant, or party revokes an original power of attorney, the revocation discharges any associate power signed by the practitioner whose power has been revoked; and that if the practitioner who signed an associate power withdraws, the withdrawal discharges any associate power signed by the withdrawing practitioner upon acceptance of the request for withdrawal by the Office.

*Comment:* One comment noted that the proposed rule did not address unrepresented joint applicants.

*Response:* Section 2.17(c)(2) now states that in the case of joint applicants

or joint registrants, all must sign the power of attorney. This is consistent with § 2.193(e)(3).

Section 2.17(d) is amended to provide that the owner of an application or registration may appoint an attorney through the Trademark Electronic Application System ("TEAS") for up to twenty applications or registrations per TEAS form that have the identical owner and attorney. This is consistent with TMEP section 602.01(a).

Section 2.17(e) sets forth the circumstances under which a Canadian attorney or agent may represent parties located in Canada. A Canadian patent agent who is registered with the Office and in good standing as a patent agent under § 11.6(c) may represent parties located in Canada before the Office in trademark matters. A Canadian attorney or agent who is registered or in good standing with the Canadian Intellectual Property Office, but not registered as a patent agent under § 11.6(c), may represent parties located in Canada if he or she has been authorized to do so by the OED Director. Before undertaking to represent an applicant, registrant, or party before the Office, and before filing a paper with the Office, a Canadian attorney or agent who is not registered with the Office and in good standing as a patent agent under § 11.6(c) must file an application for and be granted reciprocal recognition to practice before the Office in trademark cases, pursuant to § 11.14(f) of this chapter. The application for reciprocal recognition must include the fee required by § 1.21(a)(1)(i) of this chapter, and proof that the attorney or agent satisfies the requirements of 35 U.S.C. 32 and 37 CFR 11.14(c). See notice at 73 FR 47650 (Aug. 14, 2008). The OED Director must grant the request for reciprocal recognition before representation is undertaken and before the Canadian attorney or agent files an application or other document in the Office.

Once recognized by OED, the Canadian attorney or agent may only represent parties who are located in Canada. He or she cannot represent Canadian nationals who are not located in Canada. Thus, for example, a Canadian attorney or agent may not represent a Canadian national who resides in California and has access to a mailing address in Canada.

Section 2.17(g)(1) is added to provide that the Office considers a power of attorney to end with respect to a pending application when the mark is registered, when ownership changes, or when the application is abandoned. This is consistent with TMEP section 602.01.

Section 2.17(g)(2) provides that the Office considers a power of attorney filed after registration to end when the registration is cancelled or expired, or when ownership changes. If the power was filed in connection with an affidavit under section 8, 12(c), 15 or 71 of the Trademark Act, renewal application under section 9 of the Act, or request for amendment or correction under section 7 of the Act, the power is deemed to end upon acceptance or final rejection of the filing.

Section 2.18 is reorganized to clarify the procedures for establishing and changing a correspondence address.

Section 2.18(a)(2) provides that if a qualified practitioner transmits a document(s) on behalf of an applicant or registrant, the Office will send correspondence to the practitioner transmitting the document(s) only if the applicant or registrant is not already represented by another qualified practitioner from a different firm. This is consistent with TMEP sections 602.07, 603.01, and 603.02(a).

Section 2.18(a)(6) provides that the Office will send correspondence to only one address in an ex parte matter. This is consistent with current § 2.18(b).

*Comment:* If correspondence is being sent electronically, there would appear to be no reason why the Office cannot send correspondence to more than one e-mail address. The TTAB sends correspondence to more than one e-mail address, as requested by the parties who file papers with the TTAB.

*Response:* The Office has revised § 2.18(a)(6) to indicate that it applies only to ex parte matters. Sending e-mail correspondence to more than one address in an ex parte matter would create confusion. It is important that the Office, as well as any interested third parties, have one specific address to which correspondence concerning an application or registration can be sent. It is also important that an applicant, registrant, or party to a proceeding know where to look for official correspondence and who is responsible for handling incoming communications.

Section 2.18(a)(7) provides that once the Office has recognized a qualified practitioner as the representative of an applicant or registrant, the Office will communicate and conduct business only with that practitioner, or with another qualified practitioner from the same firm. The Office will not conduct business directly with the applicant or registrant, or with another qualified practitioner from a different firm, unless the applicant or registrant files a revocation of the power of attorney under § 2.19(a) and/or a new power of attorney that meets the requirements of

§ 2.17(c). The rule provides further that a written request to change the correspondence address does not revoke a power of attorney. This is consistent with TMEP sections 601.02, 602.07, and 603.02(a).

*Comment:* One comment suggests that the Office emphasize that where practitioners change law firms, the filing of a change of correspondence address does not revoke any prior powers of attorney or associate power of attorney. The commenter recommends that the rule "provide for practitioners to file a revocation/power of attorney when changing firms to ensure practitioners from the previous firm will not still be authorized to represent the client." Further, since the choice of counsel is determined by the applicant, the commenter recommends "that the rule [provide] for approval by the applicant of the change in the power of attorney." The commenter notes that the revocation will automatically update the correspondence address. Further, this places the burden on the practitioner.

*Response:* Sections 2.18(a)(7) and 2.19(a)(3) explicitly provide that a request to change the correspondence address does not revoke a power of attorney. When more than one qualified practitioner is of record and one of them changes firms, there is no need to obtain a new power of attorney or revocation of the previous power, signed by the client, in every case. If there is ongoing representation by co-counsel at the original firm, the departing attorney should file a request or, if applicable, motion with the TTAB, to withdraw, pursuant to § 2.19(b). When more than one qualified practitioner is of record and one or more of them changes firms, the burden is already on the practitioners to determine who is responsible for handling pending matters, obtain any necessary powers of attorney or revocations from the client, and file the necessary documents in the Office. Rules 2.17(c)(2), 2.18(a)(7) and 2.19(a) require a new power of attorney or revocation of the previous power, signed by the client, in order to effect a change in representation, or to send correspondence to a different firm. When a power is revoked or a practitioner withdraws, this discharges any associate power signed by the practitioner who withdraws or whose power has been revoked.

*Comment:* One commenter suggests that a revocation or new power of attorney should be required only when a power of attorney is of record for the previously recognized practitioner, and not where the previous practitioner was recognized by appearing in person or filing a paper on behalf of the party that

he or she represents. "We urge the PTO not to adopt a requirement that an applicant/registrant must file a revocation of power of attorney in instances when it has not granted a power of attorney in the first place."

*Response:* Section 2.17 has long provided three ways in which a practitioner can be recognized as a representative. There is no logical basis for treating the termination of such recognition differently based on the manner in which the representative was recognized.

*Comment:* One comment notes that, until recently, the Office would accept a simple "change of address of correspondence" instruction from a qualified practitioner as sufficient to change the address to which it directed correspondence. It is unclear why this procedure was abandoned. The commenter urges the Office to permit either the applicant/registrant or the new qualified practitioner to sign and file a request for "Change of Address for Correspondence," instead of a new power of attorney or revocation of the previous power.

*Response:* When a qualified practitioner represents an applicant or registrant, a new practitioner from a different firm could never properly authorize a change of correspondence address. Prior to 2006, the Office would accept a change of correspondence address signed by an applicant or registrant who was represented by a qualified practitioner, even if no new power of attorney or revocation of the previous power was filed. However, to ensure that the record is clear as to who is authorized to represent applicants and registrants, and to prevent unauthorized parties from taking actions in connection with applications and registrations, the better practice is to require a new power of attorney or revocation of the previous power to change the address to which official correspondence is sent. Since the Madrid Protocol was implemented in 2003, an increasing number of persons who are not qualified under § 11.14 of this chapter (*e.g.*, foreign attorneys) have attempted to represent applicants and registrants. There have also been several cases in which adverse or unauthorized parties have attempted to divert correspondence and/or take inappropriate actions such as express abandonments of applications. Therefore, the Office seeks to ensure that a proper party signs all communications and that the record is clear as to who is authorized to conduct business.

Section 2.18(b)(1) provides that when a physical or e-mail correspondence

address changes, the applicant, registrant, or party to a proceeding must file a written request to change the correspondence address. The request should be promptly filed. This is consistent with TMEP section 603.03.

New § 2.18(b)(2) provides that a request to change the correspondence address must be made in writing, signed by the applicant, registrant, or party to a proceeding, someone with legal authority to bind the applicant, registrant, or party (*e.g.*, a corporate officer or general partner of a partnership), or a qualified practitioner, in accordance with § 2.193(e)(9). This is consistent with current § 2.18(b) and TMEP sections 603.02 and 603.02(a).

Section 2.18(b)(3) provides that if an applicant or registrant files a new power of attorney that meets the requirements of § 2.17(c), the Office will change the correspondence address to that of the practitioner named in the power.

Section 2.18(b)(4) provides that if a qualified practitioner transmits a document(s) on behalf of an applicant, registrant, or party to a proceeding who is not already represented by another qualified practitioner, the Office will construe this as including a request to change the correspondence address to that of the practitioner, and will send correspondence to the practitioner. This is consistent with TMEP section 603.02(a).

*Comment:* One commenter understands the rule to mean that the correspondence address of a practitioner filing a document will only be recognized if the Office has not otherwise recognized a qualified practitioner at the time the document is filed.

*Response:* That is correct.

*Comment:* In some instances, applicants/registrants request outside counsel to prepare and file responses to Office actions but do not wish the address for correspondence to be changed to that of counsel. There is no reason for the Office to "construe" such a filing as a request for a change of address for correspondence. If that change is desired, it is simple enough for the applicant/registrant or qualified practitioner to include specific instructions in this regard in the filing. Thus, we urge the Office not to adopt a rule that would establish a default procedure by which the filing of such a response would be "construed" as including a request for change of correspondence.

*Response:* The Office's practice of corresponding with the attorney of record is consistent with current § 2.18(a), which has been in effect for many years and has worked well. The

Office sees no reason to change the practice. If the Office ever did want to change this practice, it would issue another proposed rule, in order to provide notice and solicit comment from practitioners who may have come to rely on existing practice. If an applicant or registrant does not want the correspondence address to be changed to the address of the outside counsel who transmits a response to an Office action, counsel should include clear instructions stating the address to which correspondence should be sent in the response.

Section 2.18(c)(1) is added to provide that even if there is no new power of attorney or written request to change the correspondence address, the Office will change the correspondence address upon the examination of an affidavit under section 8, 12(c), 15 or 71 of the Trademark Act, a renewal application under section 9 of the Act, or a request for amendment or correction under section 7 of the Act. This is consistent with TMEP section 603.02(c). Due to the length of time that may elapse between filings under sections 7, 8, 9, 12(c), 15, and 71 of the Act (which could be ten years or more), the Office automatically enters a new correspondence address upon examination of each filing.

Section 2.18(c)(2) is added to provide that once the Office establishes a correspondence address upon examination of an affidavit, a renewal application or a section 7 request, a written request to change the address in accordance with § 2.18(b)(2) is required to change the address during the pendency of that filing.

*Example 1:* Attorney A transmits an affidavit of use under section 8, and the examiner issues an Office action in connection with the affidavit. If another attorney from a different firm (Attorney B) wants to respond to the Office action, Attorney B must file a new power of attorney and/or revocation of the previous power, signed by the owner of the registration or someone with legal authority to bind the owner, before the Office will act on the response and correspond with Attorney B.

*Example 2:* Attorney A transmits an affidavit of use under section 8, and the Office accepts the affidavit. If Attorney B later files a request for amendment under section 7, the Office will recognize and correspond with Attorney B regardless of whether a new power of attorney or revocation of the previous power is filed.

*Example 3:* Attorney A transmits an affidavit of use under section 8, and the examiner issues an Office action in connection with the affidavit. If Attorney B wants to file a request for amendment under section 7 before the Office accepts or issues a final rejection of the section 8 affidavit, Attorney B must file a new power of attorney and/or revocation of the previous power,

signed by the owner of the registration or someone with legal authority to bind the owner, before the Office will act on the section 7 request and correspond with Attorney B.

Section 2.19(a) is revised to clarify the requirements for revocation of a power of attorney. New § 2.19(a)(1) provides that a request to revoke a power of attorney must be signed by the applicant, registrant, or party to a proceeding, or by someone with legal authority to bind the applicant, registrant, or party (e.g., a corporate officer or general partner of a partnership). This is consistent with TMEP section 602.04.

*Comment:* The proposed rule does not address the situation of unrepresented joint applicants.

*Response:* Section 2.19(a)(1) now states that in the case of joint applicants or joint registrants, all must sign the revocation. This is consistent with § 2.193(e)(3).

Section 2.19(a)(3) states that a request to change the correspondence address does not revoke a power of attorney. This is consistent with § 2.18(a)(7), discussed above.

Section 2.19(a)(4) states that a new power of attorney that meets the requirements of § 2.17(c) will be treated as a revocation of the previous power.

The provision in the current § 2.19(a) that the Office will notify the affected person of the revocation of his or her authorization is removed.

Section 2.19(b) is revised to set forth the requirements for filing a request to withdraw as attorney. This is consistent with TMEP section 602.05. The withdrawing practitioner should file the request soon after notifying the client of his/her intent to withdraw, and must include the application serial number, registration number, or proceeding number; a statement of the reason(s) for the request to withdraw; and either (1) a statement that the practitioner has given due notice to the client that the practitioner is withdrawing from employment and will be filing the necessary documents with the Office; that the client was given notice of the withdrawal at least two months before the expiration of the response period, if applicable; that the practitioner has delivered to the client all documents and property in the practitioner's file concerning the application or registration to which the client is entitled; and that the practitioner has notified the client of any responses that may be due, and of the deadline for response; or (2) if there is more than one qualified practitioner of record, a statement that representation by co-counsel is ongoing.

Section 2.22(a)(11) is amended to change a cross-reference.

Section 2.24 is redesignated as § 2.24(a), and amended to provide that if an applicant is not domiciled in the United States, the applicant may designate a domestic representative (i.e., a person residing in the United States on whom notices or process may be served in proceedings affecting the mark) by either: (1) Setting forth the name and address of the domestic representative in the initial application; or (2) filing a separate designation setting forth the name and address of the domestic representative, signed by the applicant, someone with legal authority to bind the applicant (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner.

Where the initial application sets forth the designation of domestic representative, the designation may be signed by a person authorized to sign the application on behalf of applicant, pursuant to new § 2.193(e)(1). The Office does not question the authority of the signatory, unless the record presents an inconsistency as to the signatory's authority to sign. TMEP section 804.04.

Section 2.24(b) is added to provide that a request to change or revoke a designation of domestic representative must be signed by the applicant, someone with legal authority to bind the applicant, or a qualified practitioner (e.g., a corporate officer or general partner of a partnership).

Section 2.33(a) is amended to remove the definition of "person properly authorized to sign" a verification on behalf of applicant, and replace it with a cross-reference to § 2.193(e)(1). The substance of this definition is unchanged.

Section 2.33(d), which provided for signature of verifications in applications filed through TEAS, is removed as unnecessary. Section 2.193(c) sets forth the procedure for signing a TEAS document. This procedure is unchanged.

Section 2.62(b) is amended to add a cross-reference to § 2.193(e)(2).

Section 2.64(b) is amended to add a requirement that a request for reconsideration of a final action be signed by the applicant, someone with legal authority to bind the applicant (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner, in accordance with the requirements of § 2.193(e)(2). This is consistent with current practice.

Section 2.68 is amended to add a requirement that a request for express abandonment of an application be signed by the applicant, someone with legal authority to bind the applicant

(e.g., a corporate officer or general partner of a partnership), or a qualified practitioner, in accordance with the requirements of § 2.193(e)(2). This is consistent with TMEP section 718.01.

Sections 2.74(b), 2.76(b)(1), 2.87(f), 2.88(b)(1), 2.89(a)(3), 2.89(b)(3), 2.101(b), 2.102(a), 2.111(b), 2.119(d), and 2.146(c) are amended to add cross-references to § 2.193.

Section 2.153 is amended to require that an affidavit or declaration claiming the benefits of the Act of 1946, pursuant to section 12(c) of the Act, be filed by the current owner and signed by the owner or by a person properly authorized to sign on behalf of the owner. This is consistent with TMEP section 1603.

Section 2.161(b) is amended to remove the definition of "person properly authorized to sign" an affidavit or declaration of use or excusable nonuse under section 8 of the Trademark Act ("section 8 affidavit") and replace it with a cross-reference to § 2.193(e)(1). The substance of this definition is unchanged.

Section 2.163(b), 2.167(a), and 2.171(b) are amended to add cross-references to § 2.193.

Section 2.172 is amended to add a provision that a request for surrender of a registration be filed in the name of the owner of the registration, and signed by the owner, a person with legal authority to bind the owner, or a qualified practitioner. This is consistent with current practice.

Section 2.184(b)(2) is amended to add a cross-reference to § 2.193(e)(2).

Section 2.193(a) is redesignated as § 2.193(g).

Section 2.193(b) is redesignated as § 2.193(h).

Current § 2.193(c)(1) is revised and separated into §§ 2.193(a), (b) and (c).

Section 2.193(a) provides that each piece of correspondence that requires a signature must bear: (1) A handwritten signature personally signed in permanent ink by the person named as the signatory, or a true copy thereof; or (2) an electronic signature that meets the requirements of paragraph (c). The rule makes clear that a handwritten signature must be personally signed by the person named as the signatory, and that an electronic signature must be personally entered by the person named as the signatory.

*Comment:* One comment "disagree[s] with the proposed change and definition of electronic signatures," and asserts that "[s]ince the attorneys assume liability and responsibility for the signing forms, it is common legal practice for attorneys to authorize others to sign on their behalf." To assist with

this proposed change, the commenter requests that the forms be “portable for signature to allow for easier compliance with this rule.”

*Response:* The requirement that attorneys personally sign documents that they file in the Office is not a change, having previously been required by § 10.18(a) of this chapter. See *Boyds Collection Ltd. v. Herrington & Co.*, 65 USPQ2d 2017, 2018, n.4 (TTAB 2003). Section 10.18(a) was recently replaced by § 11.18(a), which requires that “each piece of correspondence filed by a practitioner in the Office must bear a signature, personally signed by such practitioner.” See notice at 73 FR 47650 (Aug. 14, 2008).

Two methods are already in place that can be used to obtain signatures from clients or reviewers before filing a TEAS document:

- The document can be completed on-line and e-mailed to the signatory for electronic signature from within TEAS. The signatory signs the document and it is automatically returned via TEAS to the party who requested the signature; or
- The document can be filled out on-line, printed in text form, and mailed or faxed to the signatory. The signatory signs the printed document in the traditional pen-and-ink manner. The signature portion, along with a declaration if required, is scanned to create a .jpg or .pdf image file that is attached to the TEAS filing.

Section 2.193(a)(2) provides that the Office will accept a signature that meets the requirements of paragraph (c) on all correspondence, whether filed on paper, by facsimile transmission, or through TEAS or the Electronic System for Trademark Trials and Appeals (“ESTTA”). This is consistent with TMEP section 804.05.

Section 2.193(c) sets forth the requirements for signing a document electronically, previously set forth in § 2.193(c)(1)(iii). The substance is unchanged.

Section 2.193(c)(2) is redesignated as § 2.193(f).

Section 2.193(d) requires that the name of the person who signs a document in connection with a trademark application, registration, or proceeding before the TTAB be set forth in printed or typed form immediately below or adjacent to the signature, or identified elsewhere in the filing (*e.g.*, in a cover letter or other document that accompanies the filing).

Section 2.193(d) is redesignated as § 2.193(i).

Section 2.193(e) sets forth the proper person(s) to sign various types of documents that are commonly filed in

connection with trademark applications and registrations.

Section 2.193(e)(1) sets forth the definition of a person who is properly authorized to sign a verification in support of an application for registration, amendment to an application, allegation of use under § 2.76 or § 2.88, request for extension of time to file a statement of use under § 2.89, or an affidavit under section 8, 12(c), 15, or 71 of the Trademark Act. This is consistent with current §§ 2.33(a) and 2.161(b).

Section 2.193(e)(2) provides that responses to Office actions, amendments to applications, requests for reconsideration of final actions, requests for express abandonment, requests to divide, and notices of change of correspondence address in an application or registration must be signed by the owner of the application or registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a qualified practitioner. This is consistent with §§ 2.62(b), 2.64(b), 2.68(a), 2.74(b), 2.87(f), and 2.184(b)(2).

Section 2.193(e)(2)(i) provides that if the owner is represented by a qualified practitioner, the practitioner must sign, except where the owner is required to sign the correspondence. This is consistent with current § 11.18(a). This applies to both in-house and outside counsel.

Section 2.193(e)(2)(ii) provides that if the owner is not represented by a qualified practitioner, the individual owner or someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership) must sign. In the case of joint owners who are not represented by a qualified practitioner, all must sign. This is consistent with TMEP sections 605.02, 712.01 and 712.01(a)(i).

*Comment:* One commenter notes that the requirement for signature by all joint owners creates an additional burden if the document is being composed and sent through TEAS or ESTTA, or if examiner’s amendments need to be cleared with each applicant. However, the commenter understands that the percentage of unrepresented joint owners is small and that the Office intends to avoid the situation where one unrepresented joint owner speaks for the other(s) without authorization.

*Response:* Since one joint owner does not have authority to bind another, the Office believes that all must sign.

Section 2.193(e)(3) provides that powers of attorney and revocations of powers of attorney must be signed by the individual applicant or registrant or

someone with legal authority to bind the applicant or registrant (*e.g.*, a corporate officer or general partner of a partnership); that in the case of joint applicants or joint registrants, all must sign; that once the applicant or registrant has designated a qualified practitioner(s), the named practitioner may sign an associate power of attorney appointing another qualified practitioner(s) as an additional person(s) authorized to prosecute the application or registration; that if the applicant or registrant revokes the original power of attorney, the revocation also discharges any associate power signed by the practitioner whose power has been revoked; and that if the practitioner who signed an associate power withdraws, the withdrawal discharges any associate power signed by the withdrawing practitioner upon acceptance of the request for withdrawal by the Office. This is consistent with §§ 2.17(c) and 2.19(a), discussed above.

*Comment:* Under current practice, when an attorney files an application, the on-line power of attorney form can be signed by the filing attorney. The proposed rule would require a change in the on-line form. If the proposed rule is not intended to apply in the initial filing stage, but only to subsequent designations, this distinction should be made clear in the proposed rule.

*Response:* It is not now and never has been acceptable for an attorney to sign a power appointing himself or herself as the attorney of record, even with the initial application. However, if the initial application is accompanied by an improper power of attorney (*e.g.*, a power signed by the designated attorney), the Office generally does not require a properly signed power, because the filing of a power of attorney is not mandatory in a trademark case under current § 2.17(c) (new § 2.17(b)(1)). The Office will disregard the improperly signed power and recognize the attorney who submitted the application based on the attorney’s signature and appearance on behalf of the applicant. See TMEP section 602.01. When an applicant is already represented by a qualified practitioner, and a new practitioner from a different firm takes over, the Office requires a properly signed power of attorney or revocation of the previous power before recognizing the new attorney.

Section 2.193(e)(4) provides that a petition to revive under § 2.66 must be signed by someone with firsthand knowledge of the facts regarding unintentional delay. This is consistent with current §§ 2.66(b)(2) and (c)(2).

Section 2.193(e)(5) provides that a petition to the Director under § 2.146

must be signed by the petitioner, someone with legal authority to bind the petitioner (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner, in accordance with the following guidelines:

- If the petitioner is represented by a qualified practitioner, the practitioner must sign; or
- If the petitioner is not represented by a qualified practitioner, the individual petitioner or someone with legal authority to bind the petitioner (e.g., a corporate officer or general partner of a partnership) must sign.

Section 2.193(e)(6) provides that a request for correction, amendment, or surrender of a registration must be signed by the owner of the registration, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner; and that in the case of joint owners who are not represented by a qualified practitioner, all must sign.

Section 2.193(e)(7) provides that a renewal application must be signed by the registrant or the registrant's representative. This is consistent with § 2.183(a).

Section 2.193(e)(8) provides that a designation or revocation of a domestic representative must be signed by applicant or registrant, someone with legal authority to bind the applicant or registrant (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner.

Section 2.193(e)(9) provides that a notice of change of correspondence address in an application or registration must be signed by the applicant or registrant, someone with legal authority to bind the applicant or registrant (e.g., a corporate officer or general partner of a partnership), or a qualified practitioner, in accordance with the following guidelines:

- If the applicant or registrant is represented by a qualified practitioner, the practitioner must sign; or
- If the applicant or registrant is not represented by a qualified practitioner, the individual applicant or registrant or someone with legal authority to bind the applicant or registrant (e.g., a corporate officer or general partner of a partnership) must sign.

Section 2.193(e)(10) provides that the person transmitting paper documents to the Office may sign a cover letter or transmittal letter, and that the Office neither requires cover letters nor questions the authority of a person who signs a communication that merely transmits documents. This is consistent with TMEP section 605.03.

*Comment:* One commenter notes that when TTAB documents are filed through ESTTA, the electronic filing cover sheet must be signed by a person with authority. If not properly signed, the filing may be rejected if the attached documents are signed by an unauthorized person.

*Response:* The Office has revised § 2.193(e)(10) to indicate that it applies only to paper documents. For documents filed through TEAS, no cover letter or transmittal letter is generated. In ESTTA, the system generates a filing form that either stands alone and serves as the paper being filed, or is integrated with one or more attachments into a single, combined filing. As the commenter has correctly noted, the Board views the ESTTA filing form and any attachments thereto as comprising a single document, and the signer of the ESTTA form is responsible for the content of the attachments. See *PPG Industries, Inc. v. Guardian Industries Corp.*, 73 USPQ2d 1926 (TTAB 2005) regarding signature of ESTTA documents.

Section 11.18(a) is amended to add cross-references to §§ 1.4(d)(2) and 2.193(a).

#### Rulemaking Requirements

*Executive Order 12866:* This rule has been determined not to be significant for purposes of Executive Order 12866.

*Administrative Procedure Act:* This rule merely involves rules of agency practice and procedure within the meaning of 5 U.S.C. 553(b)(A). Therefore, this rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d). However, the Office has chosen to seek public comment before implementing the rule.

*Regulatory Flexibility Act:* The Deputy General Counsel for General Law of the United States Patent and Trademark Office hereby certifies to the Chief Counsel for Advocacy of the Small Business Administration that this final rule, Changes in Requirements for Signature of Documents, Recognition of Representatives, and Establishing and Changing the Correspondence Address in Trademark Cases (RIN 0651-AC26), will not have a significant impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 605(b)).

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 analysis nor a certification under the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) is required. See 5 U.S.C. 603.

The rules clarify certain requirements for signature of documents filed in the Office, recognition of representatives, and establishing and changing the correspondence address in trademark cases. In large part, the rule changes merely codify existing practice. Although the rules may affect trademark applicants or registrants, because they codify the existing practice of the Office, the changes set forth in this notice will not have a significant economic impact on a substantial number of small entities.

*Unfunded Mandates:* The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any given year. This rule will have no such effect on State, local, and tribal governments or the private sector.

*Executive Order 13132:* This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

*Paperwork Reduction Act:* This rule involves information collection requirements which are subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information in this rule have been reviewed and previously approved by the OMB under OMB control numbers: 0651-0054, 0651-0027, and 0651-0040.

The United States Patent and Trademark Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this rule will not affect the information collection requirements associated with the information collections under OMB control numbers 0651-0054, 0651-0027, and 0651-0040. The changes in this notice are limited to amending the rules of practice to codify current practice with respect to the proper party to sign various documents and current procedures for appointment, revocation, or withdrawal of attorneys and domestic representatives.

Interested persons are requested to send comments regarding these information collections, including suggestions for reduction of this burden, to: (1) The Office of Information and Regulatory Affairs, Office of Management and Budget, New

Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Patent and Trademark Office; and (2) Commissioner for Trademarks, P.O. Box 1451, Alexandria, VA 22313-1451 (*Attn:* Mary Hannon).

Notwithstanding any other provision of law, no person is required to respond to nor shall a 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.

### List of Subjects

#### 37 CFR Part 2

Administrative practice and procedure, Trademarks.

#### 37 CFR Part 11

Administrative practice and procedure, Lawyers.

■ For the reasons given in the preamble and under the authority contained in 5 U.S.C. 500, 15 U.S.C. 1123 and 35 U.S.C. 2 and 32, the Office is amending parts 2 and 11 of title 37 as follows:

### PART 2—RULES OF PRACTICE IN TRADEMARK CASES

■ 1. The authority citation for 37 CFR Part 2 continues to read as follows:

**Authority:** 15 U.S.C. 1123, 35 U.S.C. 2, unless otherwise noted.

■ 2. Revise § 2.17 to read as follows:

#### § 2.17 Recognition for representation.

(a) *Authority to practice in trademark cases.* Only an individual qualified to practice under § 11.14 of this chapter may represent an applicant, registrant, or party to a proceeding before the Office in a trademark case.

(b)(1) *Recognition of practitioner as representative.* To be recognized as a representative in a trademark case, a practitioner qualified under § 11.14 of this chapter may:

(i) File a power of attorney that meets the requirements of paragraph (c) of this section;

(ii) Sign a document on behalf of an applicant, registrant, or party to a proceeding who is not already represented by a practitioner qualified under § 11.14 of this chapter from a different firm; or

(iii) Appear in person on behalf of an applicant, registrant, or party to a proceeding who is not already represented by a practitioner qualified under § 11.14 of this chapter from a different firm.

(2) *Signature as certificate of authorization to represent.* When a

practitioner qualified under § 11.14 of this chapter appears in person or signs a document pursuant to paragraph (b) of this section, his or her personal appearance or signature shall constitute a representation to the Office that he or she is authorized to represent the person or entity on whose behalf he or she acts. The Office may require further proof of authority to act in a representative capacity.

(c) *Requirements for power of attorney.* A power of attorney must:

(1) Designate by name at least one practitioner meeting the requirements of § 11.14 of this chapter; and

(2) Be signed by the individual applicant, registrant, or party to a proceeding pending before the Office, or by someone with legal authority to bind the applicant, registrant, or party (*e.g.*, a corporate officer or general partner of a partnership). In the case of joint applicants or joint registrants, all must sign. Once the applicant, registrant, or party has designated a practitioner(s) qualified to practice under § 11.14 of this chapter, that practitioner may sign an associate power of attorney appointing another qualified practitioner(s) as an additional person(s) authorized to represent the applicant, registrant, or party. If the applicant, registrant, or party revokes the original power of attorney (§ 2.19(a)), the revocation discharges any associate power signed by the practitioner whose power has been revoked. If the practitioner who signed an associate power withdraws (§ 2.19(b)), the withdrawal discharges any associate power signed by the withdrawing practitioner upon acceptance of the request for withdrawal by the Office.

(d) *Power of attorney relating to multiple applications or registrations.*

(1) The owner of an application or registration may appoint a practitioner(s) qualified to practice under § 11.14 of this chapter for up to twenty applications or registrations that have the identical owner name and attorney through TEAS.

(2) The owner of an application or registration may file a power of attorney that relates to more than one trademark application or registration, or to all existing and future applications and registrations of that owner, on paper. A person relying on such a power of attorney must:

(i) Include a copy of the previously filed power of attorney; or

(ii) Refer to the power of attorney, specifying the filing date of the previously filed power of attorney; the application serial number (if known), registration number, or inter partes proceeding number for which the

original power of attorney was filed; and the name of the person who signed the power of attorney; or, if the application serial number is not known, submit a copy of the application or a copy of the mark, and specify the filing date.

(e) *Canadian attorneys and agents.* (1) A Canadian patent agent who is registered and in good standing as a patent agent under § 11.6(c) may represent parties located in Canada before the Office in trademark matters.

(2) A Canadian attorney or agent who is registered or in good standing with the Canadian Intellectual Property Office, but not registered as a patent agent under § 11.6(c), may represent parties located in Canada if he or she has been authorized to do so by the Director of the Office of Enrollment and Discipline, pursuant to § 11.14(f) of this chapter.

(f) *Non-lawyers.* A non-lawyer may not act as a representative except in the limited circumstances set forth in § 11.14(b) of this chapter. Before any non-lawyer who meets the requirements of § 11.14(b) of this chapter may take action of any kind with respect to an application, registration or proceeding, a written authorization must be filed, signed by the applicant, registrant, or party to the proceeding, or by someone with legal authority to bind the applicant, registrant, or party (*e.g.*, a corporate officer or general partner of a partnership).

(g) *Duration of power of attorney.* (1) For purposes of recognition as a representative, the Office considers a power of attorney filed while an application is pending to end when the mark registers, when ownership changes, or when the application is abandoned.

(2) The Office considers a power of attorney filed after registration to end when the mark is cancelled or expired, or when ownership changes. If the power was filed in connection with an affidavit under section 8, 12(c), 15 or 71 of the Trademark Act, renewal application under section 9 of the Act, or request for amendment or correction under section 7 of the Act, the power is deemed to end upon acceptance or final rejection of the filing.

■ 3. Revise § 2.18 to read as follows:

#### § 2.18 Correspondence, with whom held.

(a) *Establishing the correspondence address.* (1) If a written power of attorney that meets the requirements of § 2.17 is filed, the Office will send correspondence to the practitioner designated in the power.

(2) If a practitioner qualified under § 11.14 of this chapter transmits a document(s) on behalf of an applicant,

registrant, or party to a proceeding who is not already represented by another qualified practitioner from a different firm, the Office will send correspondence to the practitioner transmitting the documents.

(3) If an application, registration or proceeding is not being prosecuted by a practitioner qualified under § 11.14 of this chapter and the applicant, registrant, or party to the proceeding designates a correspondence address in writing, the Office will send correspondence to the designated address if appropriate.

(4) If an application, registration or proceeding is not being prosecuted by a practitioner qualified under § 11.14 of this chapter and the applicant, registrant, or party to the proceeding has not designated a correspondence address in writing, but a domestic representative has been appointed, the Office will send correspondence to the domestic representative if appropriate.

(5) If the application, registration or proceeding is not being prosecuted by a practitioner qualified under § 11.14 of this chapter, the applicant, registrant, or party to the proceeding has not designated a correspondence address, and no domestic representative has been appointed, the Office will send correspondence directly to the applicant, registrant, or party to the proceeding.

(6) The Office will send correspondence to only one address in an ex parte matter.

(7) Once the Office has recognized a practitioner qualified under § 11.14 of this chapter as the representative of an applicant or registrant, the Office will communicate and conduct business only with that practitioner, or with another qualified practitioner from the same firm. The Office will not conduct business directly with the applicant or registrant, or with another practitioner from a different firm, unless the applicant or registrant files a revocation of the power of attorney under § 2.19(a), and/or a new power of attorney that meets the requirements of § 2.17(c). A written request to change the correspondence address does not revoke a power of attorney.

(b) *Changing the correspondence address.* (1) If a physical or e-mail correspondence address changes, the applicant, registrant, or party to a proceeding must file a written request to change the correspondence address. The request should be promptly filed.

(2) A request to change the correspondence address must be made in writing, signed by the applicant, registrant, or party to a proceeding, someone with legal authority to bind the

applicant, registrant, or party (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with § 2.193(e)(9).

(3) If an applicant or registrant files a new power of attorney that meets the requirements of § 2.17(c), the Office will change the correspondence address to that of the practitioner named in the power.

(4) If a practitioner qualified under § 11.14 of this chapter transmits a document(s) on behalf of an applicant, registrant, or party to a proceeding who is not already represented by another qualified practitioner, the Office will construe this as including a request to change the correspondence address to that of the practitioner, and will send correspondence to the practitioner.

(c) *Post registration filings under sections 7, 8, 9, 12(c), 15, and 71.* (1) Even if there is no new power of attorney or written request to change the correspondence address, the Office will change the correspondence address upon the examination of an affidavit under section 8, 12(c), 15 or 71 of the Trademark Act, renewal application under section 9 of the Act, or request for amendment or correction under section 7 of the Act. If a practitioner qualified under § 11.14 of this chapter transmits the affidavit, renewal application, or section 7 request, the Office will send correspondence to the practitioner. If the owner of the registration is not represented by a qualified practitioner, the Office will send correspondence directly to the owner, or to the domestic representative if appropriate, in accordance with paragraph (a).

(2) Once the Office establishes a correspondence address upon examination of an affidavit, renewal application, or section 7 request, a written request to change the address in accordance with the requirements of paragraph (b)(2) of this section is required to change the address during the pendency of that filing.

■ 4. Revise § 2.19 to read as follows:

**§ 2.19 Revocation or withdrawal of attorney.**

(a) *Revocation.* (1) Authority to represent an applicant, registrant or party to a proceeding before the Office may be revoked at any stage in the proceedings of a trademark case, upon written notification signed by the applicant, registrant, or party to the proceeding, or by someone with legal authority to bind the applicant, registrant, or party (e.g., a corporate officer or general partner of a partnership). In the case of joint

applicants or joint registrants, all must sign.

(2) When a power of attorney is revoked, the Office will communicate directly with the applicant, registrant, or party to the proceeding, or with the new attorney or domestic representative if appropriate.

(3) A request to change the correspondence address does not revoke a power of attorney.

(4) A new power of attorney that meets the requirements of § 2.17(c) will be treated as a revocation of the previous power.

(b) *Withdrawal of attorney.* If the requirements of § 10.40 of this chapter are met, a practitioner authorized to represent an applicant, registrant, or party to a proceeding in a trademark case may withdraw upon application to and approval by the Director or, when applicable, upon motion granted by the Trademark Trial and Appeal Board. The practitioner should file the request to withdraw soon after the practitioner notifies the client of his/her intent to withdraw. The request must include the following:

(1) The application serial number, registration number, or proceeding number;

(2) A statement of the reason(s) for the request to withdraw; and

(3) Either

(i) A statement that the practitioner has given notice to the client that the practitioner is withdrawing from employment and will be filing the necessary documents with the Office; that the client was given notice of the withdrawal at least two months before the expiration of the response period, if applicable; that the practitioner has delivered to the client all documents and property in the practitioner's file concerning the application, registration or proceeding to which the client is entitled; and that the practitioner has notified the client of any responses that may be due, and of the deadline for response; or

(ii) If more than one qualified practitioner is of record, a statement that representation by co-counsel is ongoing.

■ 5. Revise § 2.22(a)(11) to read as follows:

**§ 2.22 Filing requirements for a TEAS Plus application.**

(a) \* \* \*

(11) A verified statement that meets the requirements of § 2.33, dated and signed by a person properly authorized to sign on behalf of the owner pursuant to § 2.193(e)(1);

\* \* \* \* \*

■ 6. Revise § 2.24 to read as follows:

**§ 2.24 Designation and revocation of domestic representative by foreign applicant.**

(a)(1) If an applicant is not domiciled in the United States, the applicant may designate a domestic representative (*i.e.*, a person residing in the United States on whom notices or process in proceedings affecting the mark may be served) by either:

(i) Setting forth the name and address of the domestic representative in the initial application; or

(ii) Filing a separate designation setting forth the name and address of the domestic representative, signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter.

(2) If the applicant does not file a document designating the name and address of a person residing in the United States on whom notices or process in proceedings affecting the mark may be served, or if the last person designated cannot be found at the address given in the designation, then notices or process in proceedings affecting the mark may be served on the Director.

(3) The mere designation of a domestic representative does not authorize the person designated to represent the applicant unless qualified under § 11.14 of this chapter.

(b) A request to change or revoke a designation of domestic representative must be signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter.

■ 7. Amend § 2.33 by revising paragraph (a) to read as follows, and removing and reserving paragraph (d):

**§ 2.33 Verified statement.**

(a) The application must include a statement that is signed in accordance with the requirements of § 2.193 and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant under § 2.193(e)(1).

\* \* \* \* \*

■ 8. Revise § 2.62(b) to read as follows:

**§ 2.62 Procedure for filing response.**

\* \* \* \* \*

(b) *Signature.* The response must be signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under

§ 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

■ 9. Revise § 2.64(b) to read as follows:

**§ 2.64 Final action.**

\* \* \* \* \*

(b) During the period between a final action and expiration of the time for filing an appeal, the applicant may request the examiner to reconsider the final action. The request must be signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14, in accordance with the requirements of § 2.193(e)(2).

The filing of a request for reconsideration will not extend the time for filing an appeal or petitioning the Director, but normally the examiner will reply to a request for reconsideration before the end of the six-month period if the request is filed within three months after the date of the final action. The Office will enter amendments accompanying requests for reconsideration after final action if the amendments comply with the rules of practice in trademark cases and the Act.

\* \* \* \* \*

■ 10. Revise § 2.68 to read as follows:

**§ 2.68 Express abandonment (withdrawal) of application.**

(a) *Written document required.* An applicant may expressly abandon an application by filing a written request for abandonment or withdrawal of the application, signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

(b) *Rights in the mark not affected.* Except as provided in § 2.135, the fact that an application has been expressly abandoned shall not, in any proceeding in the Office, affect any rights that the applicant may have in the mark in the abandoned application.

■ 11. Revise § 2.74(b) to read as follows:

**§ 2.74 Form and signature of amendment.**

\* \* \* \* \*

(b) *Signature.* A request for amendment of an application must be signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2). If the amendment requires verification, the verification must be sworn to or supported by a declaration under § 2.20

by a person properly authorized to sign on behalf of the applicant under § 2.193(e)(1).

■ 12. Revise § 2.76(b)(1) introductory text to read as follows:

**§ 2.76 Amendment to allege use.**

\* \* \* \* \*

(b) \* \* \*

(1) A statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant (*see* § 2.193(e)(1)) that:

\* \* \* \* \*

■ 13. Revise § 2.87(f) to read as follows:

**§ 2.87 Dividing an application.**

\* \* \* \* \*

(f) *Signature.* The request to divide must be signed by the applicant, someone with legal authority to bind the applicant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of § 11.14, in accordance with the requirements of § 2.193(e)(2).

\* \* \* \* \*

■ 14. Revise § 2.88(b)(1) introductory text to read as follows:

**§ 2.88 Filing statement of use after notice of allowance.**

\* \* \* \* \*

(b) \* \* \*

(1) A statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant (*see* § 2.193(e)(1)) that:

\* \* \* \* \*

■ 15. Revise § 2.89(a)(3) and (b)(3) to read as follows:

**§ 2.89 Extensions of time for filing a statement of use.**

(a) \* \* \*

(3) A statement that the applicant still has a bona fide intention to use the mark in commerce, specifying the relevant goods or services, signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the applicant (*see* § 2.193(e)(1)). If the verification is unsigned or signed by the wrong party, the applicant must submit a substitute verification within six months of the date of issuance of the notice of allowance.

\* \* \* \* \*

(b) \* \* \*

(3) A statement that the applicant still has a bona fide intention to use the mark in commerce, specifying the relevant goods or services, signed and verified (sworn to) or supported by a declaration under § 2.20 by a person

properly authorized to sign on behalf of the applicant (*see* § 2.193(e)(1)). If the verification is unsigned or signed by the wrong party, the applicant must submit a substitute verification before the expiration of the previously granted extension; and

\* \* \* \* \*

■ 16. Revise § 2.101(b) introductory text to read as follows:

**§ 2.101 Filing an opposition.**

\* \* \* \* \*

(b) Any person who believes that he, she or it would be damaged by the registration of a mark on the Principal Register may file an opposition addressed to the Trademark Trial and Appeal Board and must serve a copy of the opposition, including any exhibits, on the attorney of record for the applicant or, if there is no attorney, on the applicant or on the applicant's domestic representative, if one has been appointed, at the correspondence address of record in the Office. The opposer must include with the opposition proof of service pursuant to § 2.119 at the correspondence address of record in the Office. If any service copy of the opposition is returned to the opposer as undeliverable, the opposer must notify the Board within ten days of receipt of the returned copy. The opposition need not be verified, but must be signed by the opposer or the opposer's attorney, as specified in § 11.1 of this chapter, or other authorized representative, as specified in § 11.14(b) of this chapter. Electronic signatures pursuant to § 2.193(c) are required for oppositions filed through ESTTA under paragraphs (b)(1) or (2) of this section.

\* \* \* \* \*

■ 17. Revise § 2.102(a) introductory text to read as follows:

**§ 2.102 Extension of time for filing an opposition.**

(a) Any person who believes that he, she or it would be damaged by the registration of a mark on the Principal Register may file in the Office a written request, addressed to the Trademark Trial and Appeal Board, to extend the time for filing an opposition. The written request need not be verified, but must be signed by the potential opposer or by the potential opposer's attorney, as specified in § 11.1 of this chapter, or authorized representative, as specified in § 11.14(b) of this chapter. Electronic signatures pursuant to § 2.193(c) are required for electronically filed extension requests.

\* \* \* \* \*

■ 18. Revise § 2.111(b) to read as follows:

**§ 2.111 Filing petition for cancellation.**

\* \* \* \* \*

(b) Any person who believes that he, she or it is or will be damaged by a registration may file a petition, addressed to the Trademark Trial and Appeal Board, for cancellation of the registration in whole or in part. Petitioner must serve a copy of the petition, including any exhibits, on the owner of record for the registration, or on the owner's domestic representative of record, if one has been appointed, at the correspondence address of record in the Office. The petitioner must include with the petition for cancellation proof of service, pursuant to § 2.119, on the owner of record, or on the owner's domestic representative of record, if one has been appointed, at the correspondence address of record in the Office. If any service copy of the petition for cancellation is returned to the petitioner as undeliverable, the petitioner must notify the Board within ten days of receipt of the returned copy. The petition for cancellation need not be verified, but must be signed by the petitioner or the petitioner's attorney, as specified in § 11.1 of this chapter, or other authorized representative, as specified in § 11.14(b) of this chapter. Electronic signatures pursuant to § 2.193(c) are required for petitions submitted electronically via ESTTA. The petition for cancellation may be filed at any time in the case of registrations on the Supplemental Register or under the Act of 1920, or registrations under the Act of 1881 or the Act of 1905 which have not been published under section 12(c) of the Act, or on any ground specified in section 14(3) or (5) of the Act. In all other cases, the petition for cancellation and the required fee must be filed within five years from the date of registration of the mark under the Act or from the date of publication under section 12(c) of the Act.

\* \* \* \* \*

■ 19. Revise § 2.119(d) to read as follows:

**§ 2.119 Service and signing of papers.**

\* \* \* \* \*

(d) If a party to an inter partes proceeding is not domiciled in the United States and is not represented by an attorney or other authorized representative located in the United States, the party may designate by document filed in the United States Patent and Trademark Office the name and address of a person residing in the United States on whom may be served notices or process in the proceeding. If the party has appointed a domestic

representative, official communications of the United States Patent and Trademark Office will be addressed to the domestic representative unless the proceeding is being prosecuted by an attorney at law or other qualified person duly authorized under § 11.14(c) of this subchapter. If the party has not appointed a domestic representative and the proceeding is not being prosecuted by an attorney at law or other qualified person, the Office will send correspondence directly to the party, unless the party designates in writing another address to which correspondence is to be sent. The mere designation of a domestic representative does not authorize the person designated to prosecute the proceeding unless qualified under § 11.14(a), or qualified under § 11.14(b) and authorized under § 2.17(f).

\* \* \* \* \*

■ 20. Revise § 2.146(c) to read as follows:

**§ 2.146 Petitions to the Director.**

\* \* \* \* \*

(c) Every petition to the Director shall include a statement of the facts relevant to the petition, the points to be reviewed, the action or relief requested, and the fee required by § 2.6. Any brief in support of the petition shall be embodied in or accompany the petition. The petition must be signed by the petitioner, someone with legal authority to bind the petitioner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(5). When facts are to be proved on petition, the petitioner must submit proof in the form of affidavits or declarations in accordance with § 2.20, signed by someone with firsthand knowledge of the facts to be proved, and any exhibits.

\* \* \* \* \*

■ 21. Revise § 2.153 to read as follows:

**§ 2.153 Publication requirements.**

The owner of a mark registered under the provisions of the Trademark Act of 1881 or 1905 may at any time prior to the expiration of the period for which the registration was issued or renewed, upon the payment of the prescribed fee, file an affidavit or declaration in accordance with § 2.20 setting forth those goods or services in the registration on or in connection with which said mark is in use in commerce, and stating that the owner claims the benefits of the Act of 1946. The affidavit or declaration must be signed by a

person properly authorized to sign on behalf of the owner under § 2.193(e)(1).

■ 22. Revise § 2.161(b) to read as follows:

**§ 2.161 Requirements for a complete affidavit or declaration of continued use or excusable nonuse.**

\* \* \* \* \*

(b) Include a statement that is signed and verified (sworn to) or supported by a declaration under § 2.20 by a person properly authorized to sign on behalf of the owner under § 2.193(e)(1), attesting to the use or excusable nonuse of the mark within the period set forth in section 8 of the Act. The verified statement must be executed on or after the beginning of the filing period specified in § 2.160(a).

\* \* \* \* \*

■ 23. Revise § 2.163(b) to read as follows:

**§ 2.163 Acknowledgment of receipt of affidavit or declaration, and response to Office action.**

\* \* \* \* \*

(b) A response to the refusal must be filed within six months of the date of issuance of the Office action, or before the end of the filing period set forth in section 8(a) or section 8(b) of the Act, whichever is later. The response must be signed by the owner, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

\* \* \* \* \*

■ 24. Revise § 2.167(a) to read as follows:

**§ 2.167 Affidavit or declaration under Section 15.**

\* \* \* \* \*

(a) Be verified (sworn to) or supported by a declaration under § 2.20, signed by the owner of the registration or a person properly authorized to sign on behalf of the owner under § 2.193(e)(1);

\* \* \* \* \*

■ 25. Revise § 2.171(b)(1) to read as follows:

**§ 2.171 New certificate on change of ownership.**

\* \* \* \* \*

(b) \* \* \*

(1) In a registration resulting from an application based on section 1 or section 44 of the Act, if ownership of a registration has changed with respect to some but not all of the goods and/or services, the owner(s) may file a request that the registration be divided into two or more separate registrations. The

assignment or other document changing title must be recorded in the Office. The request to divide must include the fee required by § 2.6(a)(8) for each new registration created by the division, and be signed by the owner of the registration, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with § 2.193(e)(2) of this chapter.

\* \* \* \* \*

■ 26. Revise § 2.172 to read as follows:

**§ 2.172 Surrender for cancellation.**

Upon application by the owner, the Director may permit any registration to be surrendered for cancellation. The application for surrender must be signed by the owner of the registration, someone with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter. When a registration has more than one class, one or more entire class(es) but fewer than the total number of classes may be surrendered. Deletion of fewer than all the goods or services in a single class constitutes amendment of the registration as to that class (see § 2.173), not surrender.

■ 27. Revise § 2.184(b)(2) to read as follows:

**§ 2.184 Refusal of renewal.**

\* \* \* \* \*

(b) \* \* \*

(2) The response must be signed by the registrant, someone with legal authority to bind the registrant (e.g., a corporate officer or general partner of a partnership), or a practitioner who meets the requirements of § 11.14 of this chapter, in accordance with the requirements of § 2.193(e)(2).

\* \* \* \* \*

■ 28. Revise § 2.193 to read as follows:

**§ 2.193 Trademark correspondence and signature requirements.**

(a) *Signature required.* Each piece of correspondence that requires a signature must bear:

(1) A handwritten signature personally signed in permanent ink by the person named as the signatory, or a true copy thereof; or

(2) An electronic signature that meets the requirements of paragraph (c) of this section, personally entered by the person named as the signatory. The Office will accept an electronic signature that meets the requirements of paragraph (c) of this section on

correspondence filed on paper, by facsimile transmission (§ 2.195(c)), or through TEAS or ESTTA.

(b) *Copy of original signature.* If a copy, such as a photocopy or facsimile copy of an original signature is filed, the filer should retain the original as evidence of authenticity. If a question of authenticity arises, the Office may require submission of the original.

(c) *Requirements for electronic signature.* A person signing a document electronically must:

(1) Personally enter any combination of letters, numbers, spaces and/or punctuation marks that he or she has adopted as a signature, placed between two forward slash (“/”) symbols in the signature block on the electronic submission; or

(2) Sign the verified statement using some other form of electronic signature specified by the Director.

(d) *Signatory must be identified.* The name of the person who signs a document in connection with a trademark application, registration, or proceeding before the Trademark Trial and Appeal Board must be set forth in printed or typed form immediately below or adjacent to the signature, or identified elsewhere in the filing (e.g., in a cover letter or other document that accompanies the filing).

(e) *Proper person to sign.* Documents filed in connection with a trademark application or registration must be signed by a proper person. Unless otherwise specified by law, the following requirements apply:

(1) *Verification of facts.* A verification in support of an application for registration, amendment to an application for registration, allegation of use under § 2.76 or § 2.88, request for extension of time to file a statement of use under § 2.89, or an affidavit under section 8, 12(c), 15, or 71 of the Trademark Act must be sworn to or supported by a declaration under § 2.20, signed by the owner or a person properly authorized to sign on behalf of the owner. A person who is properly authorized to verify facts on behalf of an owner is:

(i) A person with legal authority to bind the owner (e.g., a corporate officer or general partner of a partnership);

(ii) A person with firsthand knowledge of the facts and actual or implied authority to act on behalf of the owner; or

(iii) An attorney as defined in § 11.1 of this chapter who has an actual written or verbal power of attorney or an implied power of attorney from the owner.

(2) *Responses, amendments to applications, requests for express*

*abandonment, requests for reconsideration of final actions, and requests to divide.* Responses to Office actions, amendments to applications, requests for express abandonment, requests for reconsideration of final actions, and requests to divide must be signed by the owner of the application or registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the following guidelines:

(i) If the owner is represented by a practitioner qualified to practice before the Office under § 11.14 of this chapter, the practitioner must sign, except where the owner is required to sign the correspondence; or

(ii) If the owner is not represented by a practitioner qualified to practice under § 11.14 of this chapter, the individual owner or someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership) must sign. In the case of joint owners who are not represented by a qualified practitioner, all must sign.

(3) *Powers of attorney and revocations of powers of attorney.* Powers of attorney and revocations of powers of attorney must be signed by the individual applicant, registrant or party to a proceeding pending before the Office, or by someone with legal authority to bind the applicant, registrant, or party (*e.g.*, a corporate officer or general partner of a partnership). In the case of joint applicants, registrants, or parties, all must sign. Once the applicant, registrant or party has designated a qualified practitioner(s), the named practitioner may sign an associate power of attorney appointing another qualified practitioner(s) as an additional person(s) authorized to prosecute the application or registration. If the applicant, registrant, or party revokes the original power of attorney, the revocation discharges any associate power signed by the practitioner whose power has been revoked. If the practitioner who signed an associate power withdraws, the withdrawal discharges any associate power signed by the withdrawing practitioner upon acceptance of the request for withdrawal by the Office.

(4) *Petitions to revive under § 2.66.* A petition to revive under § 2.66 must be signed by someone with firsthand knowledge of the facts regarding unintentional delay.

(5) *Petitions to Director under § 2.146.* A petition to the Director under § 2.146 must be signed by the petitioner, someone with legal authority to bind the

petitioner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the following guidelines:

(i) If the petitioner is represented by a practitioner qualified to practice before the Office under § 11.14 of this chapter, the practitioner must sign; or

(ii) If the petitioner is not represented by a practitioner authorized to practice before the Office under § 11.14 of this chapter, the individual petitioner or someone with legal authority to bind the petitioner (*e.g.*, a corporate officer or general partner of a partnership) must sign. In the case of joint petitioners, all must sign.

(6) *Requests for correction, amendment or surrender of registrations.* A request for correction, amendment or surrender of a registration must be signed by the owner of the registration, someone with legal authority to bind the owner (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice before the Office under § 11.14 of this chapter. In the case of joint owners who are not represented by a qualified practitioner, all must sign.

(7) *Renewal applications.* A renewal application must be signed by the registrant or the registrant's representative.

(8) *Designations and revocations of domestic representative.* A designation or revocation of a domestic representative must be signed by the applicant or registrant, someone with legal authority to bind the applicant or registrant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter. In the case of joint applicants or registrants, all must sign.

(9) *Requests to change correspondence address in an application or registration.* A notice of change of correspondence address in an application or registration must be signed by the applicant or registrant, someone with legal authority to bind the applicant or registrant (*e.g.*, a corporate officer or general partner of a partnership), or a practitioner qualified to practice under § 11.14 of this chapter, in accordance with the following guidelines:

(i) If the applicant or registrant is represented by a practitioner qualified to practice before the Office under § 11.14 of this chapter, the practitioner must sign; or

(ii) If the applicant or registrant is not represented by a practitioner qualified to practice before the Office under § 11.14, the individual applicant or

registrant or someone with legal authority to bind the applicant or registrant (*e.g.*, a corporate officer or general partner of a partnership) must sign. In the case of joint applicants or joint registrants, all must sign.

(10) *Cover letters.* A person transmitting paper documents to the Office may sign a cover letter or transmittal letter. The Office neither requires cover letters nor questions the authority of a person who signs a communication that merely transmits paper documents.

(f) *Signature as certification.* The presentation to the Office (whether by signing, filing, submitting, or later advocating) of any document by any person, whether a practitioner or non-practitioner, constitutes a certification under § 11.18(b) of this chapter. Violations of § 11.18(b) of this chapter may jeopardize the validity of the application or registration, and may result in the imposition of sanctions under § 11.18(c) of this chapter. Any practitioner violating § 11.18(b) of this chapter may also be subject to disciplinary action. See §§ 10.23(c)(15) and 11.18(d) of this chapter.

(g) *Separate copies for separate files.* (1) Since each file must be complete in itself, a separate copy of every document to be filed in connection with a trademark application, registration, or inter partes proceeding must be furnished for each file to which the document pertains, even though the contents of the documents filed in multiple files may be identical.

(2) Parties should not file duplicate copies of correspondence in a single application, registration, or proceeding file, unless the Office requires the filing of duplicate copies. The Office may dispose of duplicate copies of correspondence.

(h) *Separate documents for separate branches of the Office.* Since different branches or sections of the Office may consider different matters, each distinct subject, inquiry or order must be contained in a separate document to avoid confusion and delay in answering correspondence.

(i) *Certified documents required by statute.* When a statute requires that a document be certified, a copy or facsimile transmission of the certification is not acceptable.

## **PART 11—REPRESENTATION OF OTHERS BEFORE THE UNITED STATES PATENT AND TRADEMARK OFFICE**

■ 29. The authority citation for 37 CFR Part 11 continues to read as follows:

**Authority:** 5 U.S.C. 500, 15 U.S.C. 1123, 35 U.S.C. 2(b)(2), 32.

■ 30. Revise § 11.18(a) to read as follows:

**§ 11.18 Signature and certificate for correspondence filed in the Office.**

(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, and all documents filed with a hearing officer in a disciplinary proceeding, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Office must bear a signature, personally signed or inserted by such practitioner, in compliance with § 1.4(d)(1), § 1.4(d)(2), or § 2.193(a) of this chapter.

\* \* \* \* \*

Dated: October 15, 2009.

**David J. Kappos,**

*Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. E9-25460 Filed 10-23-09; 8:45 am]

**BILLING CODE 3510-16-P**

**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 301-11**

[FTR Amendment 2009-07; FTR Case 2009-308; Docket Number 2009-0015, Sequence 1]

**RIN 3090-AI97**

**Federal Travel Regulation (FTR); Updated Meal Cost Table for Furnished Meal(s) Adjustments**

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** 5 U.S.C. 5702 authorizes the General Services Administration (GSA) to establish per diem allowances within the continental United States (CONUS) for the reimbursement for actual and

necessary expenses of official travel. After a recent comprehensive meals and incidental expenses (M&IE) study, GSA is amending the Federal Travel Regulation in regards to the allocated meal costs. The new costs are broken out in the table § 301-11.18 by continental breakfast/breakfast, lunch, and dinner for the use of travelers who have had a meal(s) furnished by the Government or included in the registration fee, and who then must deduct the meal(s) before submitting the voucher for reimbursement. GSA is also updating the incidental expense rate.

**DATES: Effective Date:** October 26, 2009.

**Applicability Date:** This final rule is applicable for official travel performed on and after October 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** The Regulatory Secretariat (MVR), Room 4041, GS Building, Washington, DC 20405, (202) 501-4755, for information pertaining to status or publication schedules. For clarification of content, contact Ms. Jill Denning, Office of Governmentwide Policy, at (202) 208-7642 or e-mail at [jill.denning@gsa.gov](mailto:jill.denning@gsa.gov). Please cite FTR Amendment 2009-07; FTR case 2009-308.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

GSA periodically reviews the M&IE allowances throughout the continental United States (CONUS) to ensure the rates reflect the prices charged at local eating establishments. The GSA's Office of Governmentwide Policy (OGP) has recently completed a comprehensive M&IE study. This final rule amends the Federal Travel Regulation in regards to the allocated meal costs which must be adjusted when a meal(s) is furnished by the Government or is included in the registration fee, along with amending the incidental expense rate.

**B. Executive Order 12866**

This is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and

Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

**C. Regulatory Flexibility Act**

This final rule is not required to be published in the **Federal Register** for notice and comment, therefore the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, does not apply.

**D. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the final changes to the FTR do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**E. Small Business Regulatory Enforcement Fairness Act**

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates to agency management and personnel.

**List of Subjects in 41 CFR Part 301-11**

Government employees, Travel and transportation expenses.

Dated: September 1, 2009.

**Paul F. Prouty,**

*Acting Administrator of General Services.*

■ For the reasons set forth in the preamble, pursuant to 5 U.S.C. 5707, GSA amends 41 CFR parts 301-11 as follows:

**PART 301-11—PER DIEM EXPENSES**

■ 1. The authority citation for 41 CFR part 301-11 continues to read as follows:

**Authority:** 5 U.S.C. 5707.

■ 2. Revise the table in § 301-11.18, paragraph (a), to read as follows:

**§ 301-11.18 What M&IE rate will I receive if a meal(s) is furnished by the Government or is included in the registration fee?**

(a) \* \* \*

Total M&IE	\$46	\$51	\$56	\$61	\$66	\$71
Continental Breakfast/Breakfast .....	7	8	9	10	11	12
Lunch .....	11	12	13	15	16	18
Dinner .....	23	26	29	31	34	36
Incidentals .....	5	5	5	5	5	5

\* \* \* \* \*

[FR Doc. E9-25727 Filed 10-23-09; 8:45 am]

**BILLING CODE 6820-14-P**