

Power of Attorney Forms for Applications filed on or after September 16, 2012

These forms should only be used in applications filed on or after September 16, 2012. Applications filed before September 16, 2012, are subject to the former requirements of 37 CFR 1.32, 1.33, 3.71 and 3.73.

37 CFR 1.32 effective September 16, 2012, sets forth that a power of attorney filed in a patent application must be signed by the applicant for patent or the patent owner. Patent owner relates to where a patent has issued, such as in a reissue application, supplemental examination proceeding, or reexamination proceeding. See 37 CFR 1.32(a)(3). An assignee who is not the named applicant in an application cannot give power of attorney without becoming the applicant. Likewise, where an assignee is the named applicant in an application, the inventors cannot give power of attorney.

For example, where an assignee is named as the applicant in the patent application (*i.e.*, in the Applicant Information section of a signed Application Data Sheet, form PTO/AIA/14 or equivalent), the assignee-applicant can give power of attorney using the PTO/AIA/82.

The USPTO has updated its forms accordingly. Below is an explanation for use of each form.

PTO/AIA/80

This form is for use by assignees who either are the named applicant or are becoming the applicant by filing a request to change the applicant under 37 CFR 1.46(c). In either situation, this form must be accompanied by a statement under 37 CFR 3.73(c) (form PTO/AIA/96 or equivalent). The top of the form reads, "I hereby revoke all previous powers of attorney given in the application identified in the attached statement under 37 CFR 3.73(c)." The form must be signed by the named assignee or, where the assignee is a juristic entity, by someone who is authorized to act on behalf of the assignee. Someone who is "authorized to act" would be an officer who has a title that carries apparent authority or someone who have been given such authority by, for example, a corporate resolution from a board of directors. Note: a power of attorney to a patent practitioner does not make that practitioner an official of the assignee or empower the practitioner to sign the power on behalf of the assignee.

37 CFR 1.32 provides that power of attorney may be given by "the applicant." Thus, if there are multiple parties named as the applicant, then all parties must give power of attorney to the same practitioner(s) in order for the power to be effective. See MPEP 402.10.

PTO/AIA/81

This form is to be used by *pro se* inventors who are the applicant for patent to appoint one or more of the joint inventors as having power of attorney in the application file. *Pro se* means prosecuting the application without a patent practitioner (patent attorney or patent agent). This power of attorney permits the appointed inventor(s) to sign all correspondence on behalf of all of the inventors. If no power of attorney is given to one or more of the joint inventors, then all of the joint inventors who are the applicant for patent must sign patent application correspondence being filed with the USPTO.

PTO/AIA/82

This form is to be used by the applicant for patent to appoint one or more registered practitioners as having power of attorney in the application file. The form has three pages, Part A, Part B and Part C.

Part A of this form is used to identify the application to which the power of attorney is directed and must be signed in accordance with 37 CFR 1.33(b) (*e.g.*, a patent practitioner).

Part B of this form is the power of attorney. The correspondence address may also be specified on this form. Where there are multiple applicant parties, a power of attorney signed by each party must be submitted. Power of attorney may only be given by the applicant (*e.g.*, if the applicant for patent is the assignee, the inventors may not give power of attorney).

If the optional “Application Number” and “Filing Date” boxes are filled in, then Part A of the form is not required to be submitted with Part B. Note: the boxes may not be filled in by a patent practitioner after Part B has been signed by the applicant (*i.e.*, the form may not be altered once it has been signed. If the “Application Number” and “Filing Date” are not filled in, then Part B must be submitted together with Part A or an equivalent (*e.g.*, signed transmittal letter) to identify the application to which the power is directed. See 37 CFR 1.5.

Part C of this form is an optional page that can be used to appoint up to 10 patent practitioners by name and registration number. When appointing patent practitioners, the power may only name the patent practitioners associated with a Customer Number or up to 10 patent practitioners by name and registration number. Appointment of both practitioners associated with a Customer Number and specific practitioners by name and registration number is not permitted.