

New 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.

For applications filed on or after September 16, 2012, 37 CFR 1.32 sets forth that a power of attorney filed must be signed by the applicant for patent, or the patent owner (for reissue applications, reexamination proceedings and supplemental examination proceedings). For example, where an assignee is named as the applicant in the patent application (*i.e.*, in a signed Application Data Sheet, form PTO/AIA/14 or equivalent), the assignee-applicant can give power of attorney using the PTO/AIA/82 form.

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 want to become the applicant (see 37 CFR 1.46(c)). The form may also be used by assignee-applicants who were named as the applicant when the application was filed, if desired. In either situation, this form must be accompanied by a statement under 37 CFR 3.73(c) (form PTO/AIA/96 or equivalent).

In a patent application filed on or after September 16, 2012, an assignee who is not the applicant may sign a power of attorney only if the assignee becomes the applicant per 37 CFR 1.46(c). This is because the power of attorney must be signed by the applicant for patent.

The power of attorney must be signed by someone who is authorized to act on behalf of the assignee-applicant (*i.e.*, a person with a title that carries apparent authority, or a person who includes a statement of authorization to act.). A patent practitioner is not authorized to act on behalf of an assignee simply by existence of authority to prosecute an application. However, where an assignee gives the practitioner specific authority to act on behalf of the assignee (*e.g.*, authority given by organizational resolution), a practitioner may sign the PTO/AIA/80 on behalf of the assignee.

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 two parts, A and B.

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). For example, an inventor who is named as the applicant could sign both pages of the form, or the inventor could sign only Part B of the form and the patent practitioner could complete and sign Part A of the form.

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 for patent (*e.g.*, if the applicant for patent is the assignee, the inventors may not give power of attorney).

If desired, Part B may be executed once by the applicant, and copies could be used for submission to the Office. Then, Part A of the form could be completed and signed by a patent practitioner and submitted with a copy of Part B into each respective application for which power is being given.

Part B of this form 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.