

§ 10.8

(1) Apply to the Commissioner in writing on a form supplied by the Director and furnish all requested information and material and

(2) Establish to the satisfaction of the Director that he or she is:

(i) Of good moral character and repute;

(ii) Possessed of the legal, scientific, and technical qualifications necessary to enable him or her to render applicants for patents valuable service; and

(iii) Is otherwise competent to advise and assist applicants for patents in the presentation and prosecution of their applications before the Office.

(b) In order that the Director may determine whether an individual seeking to have his or her name placed upon the register has the qualifications specified in paragraph (a) of this section, satisfactory proof of good moral character and repute and of sufficient basic training in scientific and technical matters must be submitted to the Director. Except as provided in this paragraph, each applicant for registration must take and pass an examination which is held from time to time. Each application for admission to take the examination for registration must be accompanied by the fee set forth in §1.21(a)(1) of this subchapter. The taking of an examination may be waived in the case of any individual who has actively served for at least four years in the patent examining corps of the Office. The examination will not be administered as a mere academic exercise.

(c) Within two months from the date an applicant is notified that he or she failed an examination, the applicant may request regrading of the examination upon payment of the fee set forth in §1.21(a)(6). Any applicant requesting regrading shall particularly point out the errors which the applicant believed occurred in the grading of his or her examination.

(Approved by the Office of Management and Budget under control number 0651-0012)

§ 10.8 Oath and registration fee.

Before an individual may have his or her name entered on the register of attorneys and agents, the individual must, after his or her application is approved, subscribe and swear to an oath

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or make a declaration prescribed by the Commissioner and pay the registration fee set forth in §1.21(a)(2) of this subchapter.

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§ 10.9 Limited recognition in patent cases.

(a) Any individual not registered under §10.6 may, upon a showing of circumstances which render it necessary or justifiable, be given limited recognition by the Director to prosecute as attorney or agent a specified application or specified applications, but limited recognition under this paragraph shall not extend further than the application or applications specified.

(b) When registration of a resident alien under paragraph (a) or (b) of §10.6 is not appropriate, the resident alien may be given limited recognition as may be appropriate under paragraph (a) of this section.

(c) An individual not registered under §10.6 may, if appointed by applicant to do so, prosecute an international application only before the U.S. International Searching Authority and the U.S. International Preliminary Examining Authority, provided: The individual has the right to practice before the national office with which the international application is filed (PCT Art. 49, Rule 90 and §1.455) or before the International Bureau when acting as Receiving Office pursuant to PCT Rules 83.1^{bis} and 90.1.

[50 FR 5172, Feb. 6, 1985, as amended at 58 FR 4348, Jan. 14, 1993; 60 FR 21440, May 2, 1995]

§ 10.10 Restrictions on practice in patent cases.

(a) Only practitioners who are registered under §10.6 or individuals given limited recognition under §10.9 will be permitted to prosecute patent applications of others before the Office.

(b) No individual who has served in the patent examining corps of the Office may practice before the Office after termination of his or her service, unless he or she signs a written undertaking.

(1) Not to prosecute or aid in any manner in the prosecution of any patent application pending in any patent

examining group during his or her period of service therein and

(2) Not to prepare or prosecute or to assist in any manner in the preparation or prosecution of any patent application of another (i) assigned to such group for examination and (ii) filed within two years after the date he or she left such group, without written authorization of the Director. Associated and related classes in other patent examining groups may be required to be included in the undertaking or designated classes may be excluded from the undertaking. When an application for registration is made after resignation from the Office, the applicant will not be registered if he or she has prepared or prosecuted or assisted in the preparation or prosecution of any patent application as indicated in the paragraph. Knowingly preparing or prosecuting or providing assistance in the preparation or prosecution of any patent application contrary to the provisions of this paragraph shall constitute misconduct under § 10.23(c)(13) of this part.

(c) A practitioner who is an employee of the Office cannot prosecute or aid in any manner in the prosecution of any patent application before the Office.

(d) Practice before the Office by Government employees is subject to any applicable conflict of interest laws, regulations or codes of professional responsibility.

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[53 FR 38950, Oct. 4, 1988; 53 FR 41278, Oct. 20, 1988]

§ 10.11 Removing names from the register.

(a) Registered attorneys and agents shall notify the Director of any change of address. Any notification to the Director of any change of address shall be separate from any notice of change of address filed in individual applications.

(b) A letter may be addressed to any individual on the register, at the address of which separate notice was last received by the Director, for the purpose of ascertaining whether such individual desires to remain on the register. The name of any individual failing to reply and give any information requested by the Director within a

time limit specified will be removed from the register and the names of individuals so removed will be published in the Official Gazette. The name of any individual so removed may be reinstated on the register as may be appropriate and upon payment of the fee set forth in § 1.21(a)(3) of this subchapter.

(Approved by the Office of Management and Budget under control number 0651-0012)

§§ 10.12–10.13 [Reserved]

§ 10.14 Individuals who may practice before the Office in trademark and other non-patent cases.

(a) *Attorneys.* Any individual who is an attorney may represent others before the Office in trademark and other non-patent cases. An attorney is not required to apply for registration or recognition to practice before the Office in trademark and other non-patent cases.

(b) *Non-lawyers.* Individuals who are not attorneys are not recognized to practice before the Office in trademark and other non-patent cases, except that individuals not attorneys who were recognized to practice before the Office in trademark cases under this chapter prior to January 1, 1957, will be recognized as agents to continue practice before the Office in trademark cases.

(c) *Foreigners.* Any foreign attorney or agent not a resident of the United States who shall prove to the satisfaction of the Director that he or she is registered or in good standing before the patent or trademark office of the country in which he or she resides and practices, may be recognized for the limited purpose of representing parties located in such country before the Office in the presentation and prosecution of trademark cases, *provided:* The patent or trademark office of such country allows substantially reciprocal privileges to those permitted to practice in trademark cases before the United States Patent and Trademark Office. Recognition under this paragraph shall continue only during the period that the conditions specified in this paragraph obtain.

(d) Recognition of any individual under this section shall not be construed as sanctioning or authorizing the performance of any act regarded in