



January 28, 2026

Valencia Martin-Wallace  
The Acting Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1451  
Alexandria, VA 22313-1451

*Submitted via eRulemaking Portal*

Dear Acting Commissioner Martin-Wallace,

Intellectual Property Owners Association (IPO) appreciates the opportunity to respond to the United States Patent and Trademark Office's request for comments on the "Required Use by Foreign Applicants and Patent Owners of a Patent Practitioner" (Docket No. PTO-P-2025-0008). IPO is an international trade association representing a "big tent" of diverse companies, law firms, service providers, and individuals in all industries and fields of technology that own, or are interested in, intellectual property rights. IPO membership includes over 135 companies and spans over 30 countries. IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues; analyzing current IP issues; providing information and educational services; supporting and advocating for an IP system that enables innovation and creativity; and disseminating information to the public on the importance of IP rights. IPO's vision is the global acceleration of innovation, creativity, and investment necessary to improve lives.

IPO appreciates that the USPTO is seeking to achieve greater efficiencies by reducing the resource burden associated with pro se foreign filings, while also enabling more effective enforcement of statutory and regulatory requirements through the disciplinary framework applicable to registered practitioners and enhancing the ability to address false certifications, misrepresentations, and fraud. To assist in these efforts, IPO offers the following suggestions.

Although the proposed rule does not specify the precise procedural approach to examination for applications subject to this requirement, IPO recommends that the USPTO:

- (1) Conduct an initial review and issue a notice (e.g., a Notice to File Missing Parts, or similar notice) that includes the requirement to appoint a registered patent practitioner along with any other applicable rejections or requirements; and
- (2) Preserve the filing date (including any claimed priority rights) for the application even if no registered patent practitioner is of record at the time of filing.

Regarding (1), IPO recommends issuing a notice as early as possible (for example, as routinely issued for deficient or missing application elements under current practice)—as the mechanism to promptly alert foreign-domiciled applicants to the need for U.S. counsel. This would allow applicants to resolve representation deficiencies well before substantive examination. Such an approach—rather than deferring full examination until compliance—would provide several

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benefits to foreign applicants/inventors, their U.S. counsel, the USPTO, and third parties. An early notice would enable U.S. counsel to fully assess substantive issues and provide the foreign applicant/inventor with a reliable cost estimate for prosecution. It could also inform the applicant's selection of counsel, as the complexity of rejections may influence that choice. Moreover, issuing a notice at the outset would allow third parties to identify potential conflicts sooner (e.g., based on prior rights), guiding clearance searches, oppositions, or business decisions more effectively.

In addition, or as an alternative where a full Notice to File Missing Parts is not otherwise required, the USPTO could include a clear indication of the representation requirement directly in the filing receipt for applicable foreign-domiciled applicants. This simple step would provide immediate awareness of the need for U.S. counsel without delaying issuance of the receipt or affecting the granted filing date.

IPO further recommends that when a reply is filed and is deficient solely because it includes a foreign-domiciled signature, the reply should be presumed to be a bona fide attempt to advance the application, and the applicant should be afforded a new period for reply under 37 C.F.R. § 1.135(c). Providing this additional time would protect applicants from inadvertent abandonment by ensuring they receive notice of the deficiency and a defined opportunity to cure it.

Regarding (2), IPO strongly advocates that applicants' filing date rights (including priority under 35 U.S.C. 119 or 365) be maintained without requiring U.S. counsel at filing. This is consistent with the approach suggested in Section III.D of the NPRM (Fraud Mitigation and the Integrity of the U.S. Patent System), where the USPTO appears to contemplate requiring representation only for subsequent correspondence and papers (e.g., unsigned or improperly signed submissions not entered into the record per existing practice), while allowing the application to receive a filing date and serial number upon payment of the required fees. Requiring representation as a prerequisite to securing a filing date would undermine applicants' statutory rights and could create unnecessary barriers, particularly for foreign applicants seeking to preserve international priority claims.

In the event the USPTO identifies a need for registered patent practitioner representation (e.g., based on domicile), IPO further suggests that the notice include: (i) a direct link or reference to the official USPTO roster of registered patent practitioners to assist the applicant in promptly locating and retaining qualified counsel; and (ii) a clear, accessible mechanism for the applicant to contest or correct any apparent error in the domicile assessment (such as through a responsive submission, information request, or expedited petition process), and that papers filed to contest or correct the domicile of an applicant or inventor should not require a registered patent practitioner signature. It is important that papers filed to contest or correct an applicant's or inventor's domicile determination not require a registered practitioner signature, because otherwise the very parties who dispute the domicile finding would be unable to seek correction without first retaining counsel, creating a barrier that could unnecessarily prevent timely correction and force inventors and applicants who are otherwise eligible to represent themselves to incur the cost of retaining counsel.

These steps would promote fairness, reduce administrative burdens, and encourage good-faith compliance without jeopardizing legitimate filing date preservation.

Finally, IPO requests clarification that the proposed requirement will not adversely affect ongoing international harmonization initiatives, such as efforts related to instituting a global assignment system and WIPO's Global Identifier Project. We believe maintaining alignment with harmonization efforts is essential to supporting a more efficient international IP system.

We also request clarification concerning whether the requirement would extend to clerical or procedural tasks such as paying maintenance fees or other administrative interactions with the USPTO.

Thank you for permitting us to provide comments. We welcome any dialogue or opportunity to provide additional information.

Sincerely,

A handwritten signature in blue ink, reading "John Cheek". The signature is fluid and cursive, with the first name "John" and the last name "Cheek" clearly distinguishable.

John Cheek  
President