From: JPDemers@ropesgray.com
Sent: Wednesday, August 06, 2003 1:46 PM
To: AB63 Comments
Subject: Proposed changes to Rule 1.34

This is a comment on the proposed rulemaking published in 66 Fed. Reg. 38258 (June 27, 2003).

The proposal to do away with 37 CFR 1.34(b) does not take into account the situation where an attorney associated with Firm A grants associate powers to an attorney at Firm B. This happens frequently, when an academic or independent inventor arranges for licensing of an application, and associate powers are given to the licensee's representatives. Also, when a funding agency (such as the NIH) monitors prosecution of an application filed by a university, on an invention made with government funding, either the NIH or (more often) the university representative will have associate powers.

I see no great problem in requiring that the applicant, rather than his attorney at Firm A, grant additional powers of attorney to Firm B, and specify which firm is to receive official communications. However, I think it's important that existing associate powers of attorney remain valid, and I propose that the new Rule 1.34 should clearly state that associate powers of attorney filed prior to the date the new rule takes effect will continue to be recognized. Under such a rule, existing associate power arrangements, and the problems they are causing for the PTO, could be gradually phased out with minimal inconvenience to clients.

Regards,

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