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Deposit Account Authorizations

The rules of practice were amended effective Oct. 1, 1982, at 37 CFR 1.25(b) to state that: "A general authorization to charge all fees, or only certain fees, set forth in 1.16 to 1.18 to a deposit account may be filed in an individual application, either for the entire pendency of the application or with respect to a particular paper filed." A general authorization would not apply to document supply fees under 1.19, such as those required for certified copies; to post-issuance fees under 1.20 such as those required for maintenance fees; or to miscellaneous fees and charges under 1.21, such as assignment recording fees.

Many applications filed prior to Oct. 1, 1982, contain broad language authorizing any additional fees which might have been due to be charged to a deposit account. The Patent and Trademark Office does not interpret such broad authorizations, filed in an application on or after Oct. 1, 1982, will be interpreted as authorization to charge the issue fee; as well as any other fee set forth in 1.16, 1.17 or 1.18. Fees under sections 1.19, 1.20 and 1.21 will not be charged as a result of a general authorization under section 1.25.

It is recommended that authorizations to charge fees to deposit accounts include reference to the particular fees or fee sections of the rules which applicant intends to authorize. For example, if filing and processing fees under 1.16 and 1.17 only are intended to be included in the authorization, and not the issue fee under 1.18, the authorization could read: "The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required during the entire pendency of the application to Deposit Account No. [is2p]." Such an authorization would clearly exclude issue fees under 37 CFR 1.18 while including all the filing and processing fees listed in 37 CFR 1.16 and 1.17. Similarly, if it were intended to authorize the charging of fees relating only to a specific paper, the authorization could read "The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. [is2p]." Such authorizations would cover situations in which a check to cover a filing and processing fee under 37 CFR 1.16 and 1.17 was omitted or was for an amount less than the amount required.

It is extremely important that the authorization be clear and unambiguous. If applicants file authorizations which are ambiguous and which deviate from the usual forms of authorizations, the Office may not interpret the authorizations in the manner applicants intend. In such cases applicants could be subject to further expenses, petitions, etc. in order to correct fees which were not charged as intended due to an ambiguous authorization.

July 1, 1983

GERALD J. MOSSINGHOFF
Commissioner of Patents
and Trademarks

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