



MEMORANDUM

DATE: May 15, 2007

TO: Technology Center Directors

FROM: John L. Love *John L. Love*  
Deputy Commissioner  
for Patent Examination Policy

SUBJECT: Electronic Signatures and Initials Permitted by Personnel For Matters Under  
the Commissioner of Patents

Introduction

Examiners may utilize electronic signatures and electronic initials where a signature or initials are required in any matter related to a patent application, a patent, or a reexamination proceeding. In addition, other employees and contractors acting on behalf of the Commissioner of Patents, such as those in the Office of Petitions, and in the Office of Initial Patent Examination (OIPE), when initialing or signing documents or parts of a file record related to a patent application, patent, or a reexamination proceeding, may utilize electronic signatures and electronic initials. The requirements and recommended formats are set forth below. The utilization of an electronic signature or electronic initials is currently optional, and this memo confirms the legitimacy of the current practice while also setting forth the requirements that must be followed, effective as of the date of this memo, by persons when they electronically sign or initial documents. A notice will be published in the *Official Gazette* to alert the public, including applicants, patent owners, third party requesters (of reexamination proceedings), assignees, and practitioners of this practice.

37 CFR 1.4(d)(2) sets forth the requirements for electronic signatures (a signature electronically inserted between single forward slash marks) on correspondence filed in the Office, such as by applicants and patent practitioners. The requirements for an electronic signature by individuals acting on behalf of the Commissioner of Patents are similar to the requirements for electronic signatures permitted under § 1.4(d)(2). The ability to use an electronic signature and electronic initials supports the Office's initiatives of a fully electronic file wrapper, including telecommuting programs.

Electronic Signatures: Minimum Requirements

An electronic signature for a person acting on behalf of the Commissioner of Patents must:

1. Give the signer's name in English text that is reasonably specific enough to clearly identify the signer. The text may include only letter(s) or

- character(s), or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation;
2. Be personally inserted between single forward slash marks;
  3. Give the signer's job title below the signer's name. Corresponding to Office practice, a person's title denotes the presence of the authority required to take the action being electronically signed (e.g., a Notice of Allowance is to be signed by a Primary Examiner or Supervisory Patent Examiner). See MPEP §§ 1001-1005 (8<sup>th</sup> Ed., Rev. 5), for further details regarding the delegation of statutory authority within the Office. Professional designations such as Ph.D., J.D., or Esq. are prohibited because of the quasi-judicial nature of the patent examination process; and
  4. Use a readily readable font type and be of a font size no smaller than 12 point for the signer's name and job title, such as the font type and size used in the Office action containing the signature.

#### Business Area Recommended for Inclusion in Electronic Signature

In addition to complying with the minimum requirements for an electronic signature, it is recommended that the signer include their business area. If supplied, the business area should appear after the signer's job title.

#### Sample Electronic Signature

A typical electronic signature would look like the following:

/Alfred E. Smith/  
Primary Examiner, Art Unit XXXX

See Appendix I for additional examples of recommended formats for electronic signatures.

#### Documents That May be Signed Using an Electronic Signature

All documents or other parts of the file record of a patent application, patent, or reexamination proceeding may be signed utilizing an electronic signature, such as:

1. Office actions on the merits, including rejections, final rejections, notices of allowance, *Ex Parte Quayle* actions, and advisory actions;
2. other Office actions, such as a restriction requirement or a § 1.105 requirement for information;
3. parts of the Official file record, including an issue classification form; and
4. interview summaries, and information disclosure statements.

Documents requiring multiple signatures may be signed using a combination of electronic and physical (wet) signatures. For example, for actions completed in OACS, a Supervisory Patent Examiner may electronically sign an action drafted and initialed by a junior examiner.

See Appendix II describing some situations in which an electronic signature is used.

Electronic Initials: Minimum Requirements

Electronic initials by a person acting on behalf of the Commissioner of Patents must:

1. Give the signer's initials in English text that is reasonably specific enough to clearly identify the signer. The text may include only letter(s) or character(s), or both, and may include periods for punctuation. Thus, an examiner named John W. Smith may, for example, choose as his electronic initials JWS, JS, J.S., J. S., or J.W.S.;
2. Be personally inserted between single forward slash marks; and
3. Use a readily readable font type and be of a font size no smaller than 12 point, such as the font type used in the Office action containing the initials.

Consistency Recommended When Using Electronic Initials

In addition to complying with the minimum requirements for electronic initials, it is recommended that the signer be consistent, particularly within an application file and related files. Insertion of electronic initials does not require insertion of additional text stating the signer's name, job title, or business area.

See Appendix I for some examples of recommended formats for electronic initials.

Documents That May be Initialed Using Electronic Initials

Documents or other parts of the file record that may be initialed using electronic initials (corresponding to those in which a wet set of initials is proper) include:

1. search notes;
2. entry or non-entry instructions for after-final amendments; and
3. Information Disclosure Statement forms PTO/SB/08A or B (which forms will be modified to provide space for slashes).

See Appendix II describing some situations in which electronic initials are used.

Self-certifications

The following self-certifications are made by a person who electronically signs or electronically initials:

1. The person signing or initialing the document or other part of the file record must personally insert his or her own electronic signature or electronic initials (as appropriate) in the document or other part of the file record being electronically signed or initialed. Only with proper authorization may a person sign their name for another person.
2. The person inserting an electronic signature or electronic initials in a document or other part of the file record certifies that the inserted signature or initials appearing in the document is his or her own signature or initials. A person indicating that he or she is electronically signing or electronically initialing on behalf of another person certifies that he or she is properly authorized to do so.

3. The insertion of an electronic signature in a document or other part of the file record, as with a wet signature, is a certification that the item being signed is complete and ready to be made part of the official file record.
4. The job title indicated with an electronic signature is an assertion that the person has the title so indicated.

Reminder of Security Precautions That Should be Followed

As the Office transitions to the use of electronic signatures and initials, computer users must increase their awareness of the need to secure their computers and to either shut down or lock (i.e., type (Ctrl + Alt + Delete) then click on "lock") their computers during absences, such as for lunch, meetings, or overnight. See the information technology security requirements for more detailed information, in the file **it\_security\_handbook.htm**, located at:  
**[http://ptoweb.uspto.gov/ptointranet/cisd/cio\\_home/documentation/it\\_security\\_handbook/](http://ptoweb.uspto.gov/ptointranet/cisd/cio_home/documentation/it_security_handbook/)**

Questions related to the requirements for electronic signatures and initials should be directed to the Office of Patent Legal Administration at (571) 272-7701, or to the following individuals:

Mark Polutta  
Senior Legal Advisor  
Office of Patent Legal Administration  
(571) 272-7709

Samuel Broda  
Legal Advisor  
Office of Patent Legal Administration  
(571) 272-7711

Appendix I — Examples of Recommended Formats of Electronic Signatures and Electronic Initials

Primary Examiner with the name of John W. Smith and a nickname of “Chip”:

1. Any of the following are recommended electronic signatures:

A. /Chip Smith/  
Primary Examiner, A.U. 001

B. */John W. Smith/*  
Primary Examiner, A.U. 001

[note: Italic fonts that appear like handwriting must still be enclosed in forward slashes when used for electronic signatures]

C. ***/J. Smith/***  
Primary Examiner, A.U. 001

[note: As shown above, simple variations in signature form, such as (but not limited to) use of nickname, first initial, middle initial, and font style are acceptable so long as the form used is reasonably specific enough to identify the signer]

2. Any of the following are recommend formats for electronic initials:

- A. /JWS/
- B. /J.S./
- C. /J.W.S/
- D. /JS/
- E. /CS/

3. Recommended format for signing for another with proper authority:

/John Smith/  
for William Jones, Director of TC XXXX

4. Recommended format for signing in an acting capacity:

/John Smith/  
Acting Director of TC XXXX

Appendix II — Sample Situations Describing the Use of Electronic Signatures or Electronic Initials

1. A Primary Examiner creates a first Office action on the merits on her Office computer, then she:
  - electronically signs the Office action
  - and
  - turns in the Office action for credit.
  
2. An Assistant Examiner creates a final rejection in a non-published application on her (Hoteling) computer that is securely connected to the Office network, then:
  - the Examiner electronically initials the action,
  - the Examiner posts the action in OACS for review by her Primary Examiner on the Primary Examiner's (Hoteling) computer that is securely connected to the Office network, and
  - the Primary Examiner electronically signs the action via the (Hoteling) computer and turns in the action for credit.
  
3. An Examiner edits a draft of a first Office action on the merits on her (Telework) computer, then:
  - the Examiner transports the draft to the Office via a portable memory device,
  - the Examiner imports the Office action into OACS,
  - the Examiner electronically initials the Office action from within OACS,
  - the Office action is reviewed and approved by a Primary Examiner who electronically signs the Office action in OACS and turns in the action for credit.