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NOVEMBER 6, 2020



Guidance on electronic signatures at the USPTO

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The legal effect of electronic signatures varies from jurisdiction to jurisdiction, and the USPTO is no exception. [37 C.F.R. § 1.4\(d\)\(1\)-\(3\)](#) govern the three acceptable forms of signatures for papers submitted to the USPTO: (i) handwritten signatures, (ii) S-signatures (e.g., /name/), and (iii) graphic representations of signatures.

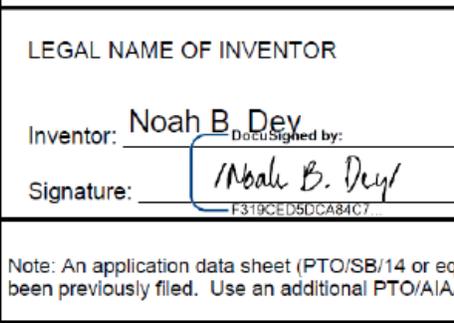
[As discussed in a previous alert](#), wet handwritten signatures have been the gold standard at the United States Patent and Trademark Office (USPTO). However, electronic signatures are making a play to take over as a now endorsed effective alternative. [The USPTO recently updated its guidance](#) after roughly 16 years to accommodate the times. Below, we outline how to properly use electronic signatures at the USPTO.

When using electronic S-signatures

The signor must (i) personally type the S-signature (e.g., /Noah B Dey/) directly into the signature line or (ii) personally type their name into a commercial platform associated with the document. When using a commercial platform (e.g., DocuSign or Adobe), the final S-signature must have forward flanking slashes (e.g., /Noah B Dey/). The signor has the option of either a) typing a signature and the forward flanking slashes or b) typing a signature and then “applying” the personally typed signature in between a prepopulated set of forward slashes. The signor must be the one to type and apply the signature to the document. Some commercial platforms generate and apply bar codes next to the signature; this does not invalidate the electronic signature.

Further, the S-signature must be adjacent to the signor’s printed name. Additional forward slashes, improper characters (like question marks and exclamation marks), or graphic symbols (like happy faces) should not be used when signing with an S-signature. Thus, it is important to provide clear directions to people electronically signing documents when using electronic S-signatures—should they include the forward flanking slashes or not to avoid a double slash, which would be improper.

An example from the USPTO of a properly created and applied S-signature follows:

<u>SIGNATURE</u>	<u>SIGNATURE TYPE and TREATMENT</u>
4. Proper Signature [37 CFR 1.4(d)(2)]	
4(a). <u>Creation of a Signature</u>	
Adopt Your Signature	
Confirm your name, initials, and signature.	
* Required	
Full Name*	
/Noah B. Dey/	
SELECT STYLE	
DRAW	
PREVIEW	
	This is an example of creating an S-signature (37 CFR 1.4(d)(2)) made with a commercial platform. The person typed their name including the forward slashes to create the signature, which will be personally inserted on a document adjacent their printed name.
<small>By selecting Adopt and Sign, I agree that this mark will be the electronic representation recipients of electronic documents I sign will be able to see my DocuSign ID, which will</small>	
4(b). <u>Proper Signature</u>	
	This is an example of the S-signature made in 4(a) above that has been applied by the person signing to a document adjacent to their printed name.
<small>Note: An application data sheet (PTO/SB/14 or eq been previously filed. Use an additional PTO/AIA</small>	

When using graphic representations of signatures

The signor must personally create the graphic representation of the signor's handwritten signature on a commercial platform, often using a stylus or mouse, or finger. Optionally, a graphic representation can be applied by the signor directly on an electronic document without using a commercial platform (e.g., using a finger or stylus to sign on a touch screen of a smartphone). Unlike the S-signature, the signor need not include forward slashes, but, like the S-signature, the signor must be the one to personally apply the graphic representation onto the signature line adjacent to the printed name. As with the S-signature, bar codes generated and applied by the commercial platforms next to the graphic representation do not invalidate the electronic signature.

An example from the USPTO of a proper graphic representation of a signature follows:

<u>SIGNATURE</u>	<u>SIGNATURE TYPE and TREATMENT</u>
8. Proper Signature [37 CFR 1.4(d)(3)]	
8(a). <u>Creation of a Signature</u>	
<p>Full Name* <input type="text" value="Noah B Dey"/> Initials* <input type="text" value="NBD"/></p> <p>SELECT STYLE <u>DRAW</u></p> <p>DRAW YOUR SIGNATURE</p>  <p><small>By selecting Adobe Sign, I agree that this mark will be the electronic representation of my signature or initials whenever I use recipients of electronic documents. I sign will be able to see my DocuSign ID, which will include my email address.</small></p>	<p>This is an example of a graphic representation of a handwritten signature (37 CFR 1.4(d)(3)) for documents submitted via the Office's electronic filing system. The signature was created by the signer on a commercial platform using a stylus.</p>
8(b). <u>Proper Signature</u>	
<p>LEGAL NAME OF INVENTOR</p> <p>Inventor: <input type="text" value="Noah B. Dey"/> Date _____</p> <p>Signature: </p> <p><small>Note: An application data sheet (PTO/SB/14 or equivalent), including naming the entire inventor been previously filed. Use an additional PTO/AIA/01 form for each additional inventor.</small></p>	<p>The signature was created using a commercial platform and inserted on the document by the signer. The paper is submitted to the USPTO via the Office's electronic filing system. It does not require forward slashes.</p>

Thus, the electronic signing of papers (e.g., inventor declarations) for submission to the USPTO (as described above) has finally been confirmed to be an effective alternative to wet signatures.

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