

Chapter 500 Receipt and Handling of Mail and Papers

- 501 Papers Received by Correspondence and Mail Division
- 502 Depositing Papers
- 503 Serial Number and Filing Receipt
- 504 Register of Applications
- 505 "Office Date" Stamp of Receipt
- 506 Completeness of Original Application
- 506.01 Return of Incomplete Application
- 507 Drafting Division
- 508 Distribution
- 508.01 Papers Sent to Wrong Group
- 508.02 Papers Received After Patenting or Abandonment
- 508.03 Unmatched Papers
- 509 Payment of Fees
- 510 Patent and Trademark Office Business Hours
- 511 Postal Service Emergency Contingency Plan
- 512 Certificate of Mailing

501 Papers Received by Correspondence and Mail Division

37 CFR 1.1. All communications to be addressed to the Commissioner of Patents and Trademarks. All letters and other communications intended for the Patent and Trademark Office must be addressed to "Commissioner of Patents and Trademarks," Washington, D.C. 20231. When appropriate, a letter should also be marked for the attention of a particular officer or individual. Letters and other communications relating to international applications during the international stage and prior to the assignment of a national serial number should be additionally marked "Box PCT."

NOTE.—§§ 1.1 to 1.26 are applicable to trademark cases as well as to national and international patent cases except for provisions specifically directed to patent cases. See § 1.9 for definitions of "national application" and "international application."

37 CFR 1.4. Nature of correspondence. (a) Correspondence with the Patent and Trademark Office comprises (1) correspondence relating to services and facilities of the Office, such as general inquiries, requests for publications supplied by the Office, orders for printed copies of patents or trademark registrations, orders for copies of records, transmission of assignments for recording, and the like, and (2) correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other pro-

ceedings of national applications in Subpart B, §§ 1.31 to 1.352; of international applications in Subpart C, §§ 1.401 to 1.482; and of Trademark applications §§ 2.11 to 2.189.

(b) Since each application file should be complete in itself, a separate copy of every paper to be filed in an application should be furnished for each application to which the paper pertains, even though the contents of the papers filed in two or more applications may be identical.

(c) Since different matters may be considered by different branches or sections of the Patent and Trademark Office, each distinct subject, inquiry or order should be contained in a separate letter to avoid confusion and delay in answering letters dealing with different subjects.

The official mailing address for all communications sent to the Patent and Trademark Office is:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

The physical location of the Office is 2021 Jefferson Davis Highway, Arlington, Virginia. This address should not be used on mail sent to the Patent and Trademark Office.

All mailed communications are received by the Incoming-Mail Section of the Correspondence and Mail Division, which opens and distributes all official mail.

502 Depositing Papers

37 CFR 1.5. Identification of application, patent or registration. (a) When a letter concerns an application for patent, it should state the name of the applicant, the title of the invention, the serial number or international application number of the application, the date of filing the same, and, if known, the group art unit and name of the examiner to which it has been assigned (see § 1.55).

(b) When the letter concerns a patent, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention.

(c) A letter relating to a trademark application should identify it as such and by the name of the applicant and the serial number and filing date of the application. A letter relating to a registered trademark should identify it by the name of the registrant and by the number and date of the certificate.

37 CFR 1.6. *Receipt of letters and papers.* (a) Letters and other papers received in the Patent and Trademark Office are stamped with the date of receipt. No papers are received in the Patent and Trademark Office on Saturdays, Sundays or holidays within the District of Columbia.

(b) Mail placed in the Patent and Trademark Office pouch up to midnight on weekdays, excepting Saturdays and holidays, by the post office at Washington, D.C., serving the Patent and Trademark Office, is considered as having been received in the Patent and Trademark Office on the day it was so placed in the pouch.

(c) In addition to being mailed or delivered by hand during office hours, letters and other papers may be deposited up to midnight in a box provided at the guard's desk at the lobby of building 3 of the Patent and Trademark Office at Crystal Plaza, Arlington, Virginia and at the main entrance of the Department of Commerce building, Washington, D.C., on weekdays except Saturdays and holidays, and all papers deposited therein are considered as received in the Patent and Trademark Office on the day of deposit.

Applications, amendments and other papers may be sent to the Patent and Trademark Office by mail, or they may be deposited in the Correspondence and Mail Division or in a box which is kept in the lobby of building 3 of the Patent and Trademark Office for this purpose.

The Patent and Trademark Office ZIP Code designation "20231" should be used when writing the Patent and Trademark Office for any matter. In addition, the sender's own ZIP Code designation should be given.

The Office often experiences difficulty in matching incoming papers with the application file to which they pertain because insufficient or erroneous information is given. This applies especially to amendments, powers of attorney, changes of address, status letters, requests for extension of time, and petitions.

Frequently, there are errors in the serial number or in the group art unit number, or the incoming paper uses the old group art unit number where an application has been transferred and acted on by a different examining group.

Where the group art unit number is entirely omitted, the routine operations of the Application Division must be interrupted solely for the purpose of determining the location of the application so that the communication can be properly routed. Under these circumstances the efficiency of the Application Division is impaired and the incoming paper is delayed in reaching its proper destination. Where such papers are not essential to compliance with a statutory period or time limit for response, they may be returned for completion to identify the location of the files.

It would be of great assistance to the Office if all incoming papers pertaining to a filed application carried the following items:

1. Serial number (checked for accuracy).
2. Group art unit number (copied from filing receipt or most recent Office Action).
3. Filing date.
4. Name of the examiner who prepared the most recent Office Action.
5. Title of invention.

To further reduce the burden on the Application Division and the examining groups, it is also requested that the submission of additional or supplemental papers on a newly filed application be deferred until a filing receipt has been received. In the same vein, it would be appreciated if the filing of additional papers relating to an allowed application were deferred until a notice of allowance (PTOL-85) is received.

ISSUE BATCH NUMBER

All papers filed by applicant in the Office after receiving the Notice of Allowance and before the time the Issue Fee Receipt is received should include the Issue Batch Number. The Issue Batch Number is printed on the Notice of Allowance form in box 4 in the lower left hand corner below the address. The Issue Batch Number consists of a capital letter followed by two digits, for example; "AO3", "D18", "F42", "J79". Any lower case letters before the Issue Batch Number should be ignored since they are the typist's initials. Use of the Issue Batch Numbers is important since the allowed applications are filed by these numbers.

Any paper filed after receiving the Issue Fee Receipt should include the indicated patent number rather than the Issue Batch Number. At this time in the processing, the Issue Batch Number is no longer useful since the application has been removed from the batch at the time the patent number was assigned.

If the above suggestions are adopted the processing of both new and allowed applications could proceed more efficiently and promptly through the Patent and Trademark Office.

HAND DELIVERY OF PAPERS

Any paper which relates to a pending application may be personally delivered to an examining group. However, the examining group will accept the paper only if: (1) the paper is accompanied by some form of receipt which can be handed back to the person delivering the paper; and (2) the examining group being asked to receive the paper is responsible for acting on the paper.

The receipt may take the form of a duplicate copy of such paper or a card identifying the paper. The identifying data on the card should be so complete as to leave no uncertainty as to the paper filed. For example, the card should contain the applicant's name(s), Serial No., the filing date and a description of the paper being filed. If more than one paper is being filed for the same application, the card should contain a description of each paper or item.

Under this procedure, the paper and receipt will be date stamped with the group date stamp. The receipt will be handed back to the person hand delivering the paper. The paper will be correlated with the application and made an official paper in the file, thereby avoiding the necessity of processing and forwarding the paper to the examining group via the Mail Room.

If duplicate copies of a request for an extension of time are hand delivered to an examining group, both copies are dated, either stamped approved or indicated as being denied, and signed. The duplicate copy is returned to the delivering person regardless of whether the request was signed by a registered attorney or agent, either of record or acting in a representative capacity, the applicant or the assignee of record of the entire interest.

The examining group will accept and date stamp a paper even though the paper is accompanied by a check or the paper contains an authorization to charge a Deposit Account. However, in such an instance, the paper will be hand carried by group personnel to the Office of Finance for processing and then made an official paper in the file.

All such papers, together with the cash, checks, or money orders, shall be hand carried to the Cashier's Window, Room 2-1B01, between the hours of 3:00 p.m. and 4:00 p.m.

The papers shall be processed by the accounting clerk, Office of Finance, for pickup at the Cashier's Window by 3:00 p.m. the following work day. Upon return to the group, the papers will be entered in the application file wrappers.

A duplicate copy of officially date-stamped papers may be hand delivered. See §§ 104, 710.02(e) and 713.01.

EXPRESS MAIL SERVICE

There are two types of Express Mail delivery offered by the U.S. Postal Service—"Post Office to Addressee" and "Post Office to Post Office." The only type of service which can be used for Express Mail directed to the Patent and Trademark Office is "Post Office to Addressee." This service provides for delivery to one of the Patent and Trademark Office employees in Room 1627, Department of Commerce Building,

Washington, D.C., no later than 3:00 p.m. of the next workday following its deposit before 5:00 p.m. at any postal facility with an Express Mail window.

The only address that should be used for Express Mail sent to the Patent and Trademark Office is:

"Commissioner of Patents and Trademarks
Washington, D.C. 20231."

"Post Office to Post Office" Express Mail *does not* provide for delivery but instead is retained at the postal facility of the addressee for pickup. The Postal Service *does not* notify the addressee that this type of Express Mail has been received and is awaiting pickup. If not picked up, this mail is held for 15 days and then returned to the sender.

Therefore, since the Patent and Trademark Office does not have resources for picking up any mail, including Express Mail, the "Post Office to Post Office" Express Mail will not reach the Patent and Trademark Office.

503 Serial Number and Filing Receipt

Serial Numbers are assigned in the Correspondence and Mail Division immediately after mail has been opened.

If a self addressed post card is submitted with a patent application, that post card will be stamped with both the receipt date and serial number prior to returning it to the addressee.

The identifying data on the post card should include: (1) applicant's name(s); (2) title of invention; (3) number of pages of specification, claims, and sheets of drawing; (4) whether oath or declaration used; and (5) amount and manner of paying the fee.

A return post card should be attached to *each* patent application for which a receipt is desired.

It should be recognized that the identification of an application by Serial Number does not necessarily signify that the Patent and Trademark Office has accepted the application as complete. After the application has been reviewed for statutory compliance and given an official filing date, the usual filing receipt will be mailed.

In the Application Division each application which meets the formal requirements as to completeness is given a filing date. It is important, when referring to application files, to identify them by their filing dates as well as by serial numbers.

The Application Division mails a receipt to the attorney or agent, if any, otherwise to the applicant, for each complete application filed, giving the serial number, filing date, and group to which assigned. See § 506.

In the Application Division the application papers are placed in a file wrapper and certain data placed thereon.

RETURN POST CARD

If a receipt of any paper filed in the Patent and Trademark Office is desired, it may be obtained by enclosing with the paper a self-addressed post card identifying the paper. The Patent and Trademark Office will stamp the receipt date on the card and place it in the outgoing mail.

The identifying data on the card should be so complete as to match the paper with the application or other document to which it is to be associated. For example, the document should be identified by the applicant's name(s), serial number, filing date, interference number, etc., and the paper should be identified by specifying the type thereof, namely, affidavit, amendment, appeal, application papers, brief, drawings, fees, motions, supplemental oath or declaration, petition, etc.

When papers for more than one document are filed under a single cover a return addressed post card should be attached to the paper for *each* document for which a receipt is desired.

504 Register of Applications

The Application Division assigns the application to the examining group to which it appears to belong. A list of all applications arranged by serial numbers as well as an alphabetically arranged card index of the applicants is kept by the Application Division and the identification of the group to which each application is sent is made part of this record.

505 "Office Date" Stamp of Receipt

In whatever manner an application or any part thereof, or an amendment, letter, or other paper is transmitted, the date of its receipt is stamped thereon by either the Correspondence and Mail Division or examining group. The stamp is referred to as the "Office Date" stamp and, if the application is complete (See § 1.55), establishes the "filing date."

506 Completeness of Original Application

INCOMPLETE APPLICATIONS

If the application papers are too informal to be given a filing date, the case is held in the Application Division as an *incomplete* application and the applicant is informed of the short-

comings of the papers. No filing date is granted until the incompleteness is corrected.

Form PTO-1123, Notice of Incomplete Application Papers, is prepared and mailed by the Application Division when application papers are deemed incomplete under 35 U.S.C. 111.

Such incompleteness may consist of the omission of any one of the component parts of an application. The component parts of an application are:

1. A declaration or oath, 35 U.S.C. 111.
2. A specification, 35 U.S.C. 112.
3. A claim, 35 U.S.C. 112.
4. A drawing, 35 U.S.C. 113.
5. Basic statutory filing fee of \$65.

Filing dates are accorded to applications filed with insufficient fees, provided that at least the basic \$65.00 filing fee is present. In such cases a notice, form PTO-1094, Notice of Insufficient Fee and/or Informal Drawings is mailed by the examining group, requiring that the balance of the fee be paid within two months from the notification of the deficiency.

Occasionally applications which have already been signed by the inventors contain informal claims that the attorney or agent feels should not be present in the application upon filing. However, since alteration after execution by the inventor and before filing is prohibited and could result in the application being stricken from the files, such applications must be filed by the attorney or agent in the form in which they were executed by the inventors. Prior to December 1, 1978, the Office has included such informal claims when calculating the amount of the filing fee. This has resulted in an unnecessary financial burden on inventors. Since December 1, 1978, an application may be filed with a preliminary amendment which is limited to the cancellation of claims. This will diminish the number of claims to be considered for calculation of the filing fee. Any other changes to the application should be the subject of a separate amendment which may be entered after the filing fee has been calculated and the filing date granted. If a preliminary amendment which cancels claims does not accompany the application at the time the application is filed, the notification of insufficient fee will inform the inventor, attorney or agent of the possibility of correcting the insufficient payment by either (1) paying the additional required fee amount, or (2) filing an amendment which cancels claims to where the remaining claims are covered by the fee submitted upon filing. However, no refund will be made once the fee for claims is properly paid, even though claims are later cancelled.

The Office will accord a filing date to facsimile or other reproduced copies of United States na-

tional patent applications meeting the requirement of 35 U.S.C. 111, *provided*:

- (1) the application was properly executed by the inventor(s) prior to transmission of the copy.
- (2) the copy filed is a complete copy and bears a reproduction of applicant's signature, and
- (3) the originally signed application is filed no later than two months after the facsimile or other reproduced copy is filed.

Authority for this practice is found in 35 U.S.C. 26 as interpreted by the District Court decisions *Neergaard v. Dann*, Civil Action No. 76-536, December 20, 1976 (D.D.C.) and *Dietzel et al. v. Commissioner of Patents and Trademarks*, Civil Action No. 75-0298, December 22, 1976 (D.D.C.).

In these cases, the Application Division will mail a letter indicating that the application has been provisionally accepted under 35 U.S.C. 26 and requiring that the originally signed application be filed within two months of the date of the deposit of the application. The application will be held in the Application Division until the original copy of the application bearing the original signature is received and associated with the file, at which time it will be processed and forwarded to the examining group.

The copy of the application bearing applicant's original signature will be used for examination purposes. Therefore, this copy will be given a cursory review to determine whether or not it appears to be identical to the initially filed copy, for example, does it contain the same number of pages and claims, drawings, etc.

The Application Division is authorized to grant one extension of time for filing of the original copy of the application upon a request therefor which shows good and sufficient reason for the extension. If the copy of the application bearing applicant's original signature has not been filed within the prescribed time period, the application becomes abandoned.

In order to ensure prompt association with the copy of the application initially filed it is strongly recommended that the subsequently filed original application be accompanied by a cover letter signed by the applicant or the attorney or agent averring it is the original of the earlier filed facsimile application, identifying the application by applicant's name, title of invention, date of initial filing and serial number, if known.

It should be recognized that this practice is intended for emergency situations to prevent loss of valuable rights and should not be used routinely for filing applications.

The above procedure does not apply to international applications filed under the Patent Cooperation Treaty since procedures to cover unsigned international applications are already provided for in PCT Article 14(1)(a)(i) and (b) and PCT Rule 26.2.

In the past the Application Division has reviewed the claimed subject matter of newly filed applications to determine whether a filing date should be granted. Such applications included those drawn to perpetual motion devices and methods of doing business and applications for reissue signed by assignees or filed more than two years after the grant of the patent which appear to contain broadened reissue claims.

Under the current practice, a filing date is normally granted in such cases if the application is otherwise complete, and then forwarded to the examiner for his consideration and decision during the regular course of examination.

INFORMAL APPLICATIONS

An application is *informal* if it is typed on both sides of the paper, or is not permanent, legible or reproducible. If such informalities are timely corrected, the application is given the filing date on which the original informal papers were filed.

Form PTO-1094, Notice of Insufficient Fee and/or Informal Drawings, is used when utility patent applications are filed with at least a \$65 filing fee but more money is required, or patent applications are received with informal drawings. This form is mailed by the examining group prior to the examiner's examination of the application.

The Application Division accords a filing date, as of the date of receipt in the Office, to application papers which include all of the necessary components of a complete application required by statute, but are informal because they do not comply with the rules or notices. In such applications, the Application Division prepares form PTO-152, Notice of Informal Application indicating the informality and places it in the file wrapper. The examining group mails the letter to applicant. Failure to correct the informality within the specified time results in abandonment of the application.

An application too informal to be admitted for examination may receive as its filing date, the date it was originally presented only by petition under 37 CFR 1.183, and only when a satisfactory showing is made that a proper application could not be submitted originally and that applicant will suffer irreparable damage if the filing date sought is not accorded.

Inquiries directed to the Application Division, either in person or by telephone, concern-

ing patent applications should not be made during the afternoon hours between 2:30 and 4:30.

The letter of transmittal accompanying the filing of continuing applications should include such additional information as the identification by serial number of the parent application, its status, and location in the Patent and Trademark Office. The supplying of this information will simplify the processing of these applications.

When a new application is filed with a request to transfer drawings under 37 CFR 1.88, the application papers should include drawing prints to enable the Application Division to process the case before transfer of the formal drawings is effected.

506.01 Return of Incomplete Application

If a request is made, the parts of an incomplete application are returned by the Application Division. They may be used by applicant as part of a complete application if the missing parts are later supplied. See 37 CFR 1.53.

507 Drafting Division

The drawing is inspected by the Drafting Division for formal compliance with the rules. If the drawing is satisfactory, it is stamped "approved". If the drawing contains defects which are not so serious as to warrant holding the application to be incomplete, the Draftsman checks the appropriate notation on the "Notice of Informal Patent Drawing" form PTO-948.

See § 608.02(a) for handling of photoprints filed in lieu of drawings.

508 Distribution

The Customer Services Division prepares permanent prints made of the drawings of all complete applications and secures the prints in the file wrappers. The drawings and files are then assembled and forwarded to the examining operation.

When a new or substitute drawing is received, a print is made and forwarded to the group to be placed in the file as an official paper.

As to the procedure to be followed when a model is filed, see §§ 608.03 and 608.03(a).

508.01 Papers Sent to Wrong Group

If there is no Serial Register card, storage card or transfer card in the group for drawings, amendments or other papers delivered to the

group, Application Division should be telephoned to determine the current assignment of the application. The current group assignment should be placed on the paper and then forwarded to the appropriate group. The assignment indicated by Application Division may be verified by calling the group indicated before forwarding the paper.

A terminal disclaimer should not be routed directly to an examining group. If such a paper (without the file) is received, it should be promptly forwarded *without the file* to the Patent Issue Division. In some situations the Patent Issue Division may be holding a terminal disclaimer. This may be checked by calling the Chief of the Patent Issue Division by telephone.

508.02 Papers Received After Patenting or Abandonment

After an application is patented or abandoned, any incoming communication which is not to become part of the record is sent to the Correspondence and Mail Division for handling with the status of the application indicated thereon.

508.03 Unmatched Papers

These instructions set forth procedures for handling unmatched papers in the examining groups. It is suggested that the unmatched papers within a group be frequently reviewed to determine which should be sent to the Paper Correlating Office (PCO).

Item 1 below treats the papers in the "Serial number too high" category. Items 2-6 below are directed to all other unmatched papers not in the "Serial number too high" category.

1. Unmatched papers in the "Serial No. Too High" category

This collection of papers being held by the group should be reviewed *at least* once a week. Any paper having a serial number which clearly should have already been received by the group should be removed from this collection. Where the group does not have a corresponding application for any of these papers, inquiry should be made of the Application Division to determine the group of record. If another group number is indicated, the paper should be forwarded to that group. If the Application Division does not yield a new group number for the indicated Serial No., the paper should be sent to the PCO.

2. Unmatched papers having a serial number for which no serial register card is present in the group

It can be assumed that either the group number or the serial number on these papers is incorrect. Inquiry should be made of the Application Division and PALM

to determine the group of record and the procedure set out in item 1 above followed. An exception to this practice should be made where the paper has thereon the name of an examiner in the group. In these situations a careful check of the group records and files as well as consultation with the indicated examiner should be made to determine the correct serial number. If this does not yield a new serial number the paper should be sent to the PCO.

3. *Unmatched papers relating to cases abandoned from group*

The file should be ordered from Abandoned Files. If the file is not received therefrom, the paper should be forwarded to the PCO. Charge Card, PTO-125, returned by Abandoned Files should be stapled to the paper when it is sent to the PCO.

4. *Papers for applications which have been sent to the Patent Issue Division*

All papers for applications which PALM indicates to be located in any of the locations 730 through 765 should be forwarded to the Query and Correspondence Section of the Allowed Files Branch of the Patent Issue Division, room 2-10C28 via the Office of Publications messenger. Such papers may be left for pickup by the messenger in the "Allowed Files Pickup/Delivery" boxes which are located in each examining group.

The instructions of this section (4) apply to all files in Issue including those which have been assigned a Patent Number and Issue Date. Papers requiring examiner review and action will be returned to the examining group after the Patent Issue Division personnel have matched the paper to the appropriate file.

5. *Papers for applications which have been sent to the Record Room*

If PALM indicates that the application for a paper is in the Record Room (location code 810 or 820), the paper should be forwarded to the Paper Correlating Office for response.

6. *Unmatched papers for cases which are known to be pending in the group but cannot be located*

Generally these are applications for which a serial register card is present in the group, but the file is not immediately available. These papers should be retained in the group for processing.

Each paper sent to the PCO must have a PCO Transmittal Form stapled thereto. Each form attached to a paper should be filled out as completely as possible. Transmittal Forms attached to papers in categories 1 and 2 must have an indication of the information obtained from both Application Division and PALM. The PALM information should be inserted in the large space at the bottom of the Form. This will help eliminate duplication of effort by PCO personnel. Papers received without transmittal forms or with incompletely filled out transmittal forms may be returned to the originating group. Additional copies of the PCO transmittal can be obtained by calling extension 73251.

509 Payment of Fees

37 CFR 1.21. *Patent and miscellaneous fees and charges.* In addition to the fees prescribed by statute, the following fees and charges are established by the Patent and Trademark Office:

- (a) For typewritten copies of records, for each page produced (double-spaced) or fraction thereof..... \$1.50
- (b) For photocopies or other reproductions of records, drawings, or printed material, per page of material copied..... .30
- (c) For copies of plant patents in color..... 1.00
- (d) For certified copies of patents in print:
 - For specification and drawing, per copy50
 - For the certificate..... 1.00
 - For the grant..... 1.00
- (e) For abstracts of title to each patent or application:
 - For the search, one hour or less, and certificate 5.00
 - Each additional hour or fraction thereof 2.50
 - For each brief from the digest of assignments, of 200 words or less..... 2.00
 - Each additional 100 words or fraction thereof20
- (f) For title reports required for Office use... 1.00
- (g) For translations from foreign languages into English, made only of references cited in applications or of papers filed in the Patent and Trademark Office insofar as facilities may be available: Written translations, for every 100 words of the original language, or fraction thereof.... 5.00
- (h) For registration of an attorney agent:
 - For admission to examination for registration to practice, fee payable upon application 35.00
 - On registration to practice..... 25.00
- (i) For certificate of good standing as an attorney or agent..... 5.00
- (j) For making patent drawings, when facilities are available, the cost for making the same:
 - Rate per hour..... 12.00
 - Minimum charge per sheet..... 25.00
- (k) For correcting patent drawings, the cost of making the correction:
 - Rate per hour..... 12.00
 - Minimum charge..... 3.00
- (l) [deleted]
- (m) [deleted]
- (n) Search of Patent and Trademark Office records for purposes not otherwise specified in this rule, per half-hour of search or fraction thereof..... 3.00
- (o) [Reserved]

- (p) Subscription order for printed copies of patents as issued: Annual service charge for entry of order and one subclass, \$2.00, and 20 cents for each additional subclass included; amount to be deposited (for price of copies supplied), as determined with respect to each order.
- (q) List of U.S. Patents:
 All patents in a subclass, per sheet (containing 100 patent numbers or less) ----- \$1.00
 Patents in a subclass, limited by date or patent number, per sheet (containing 50 patent numbers or less) ----- 1.00
- (r) Local delivery box rental, annual ----- 12.00
- (s) For publication in the Official Gazette of a notice of the availability of a patent for licensing or sale, each patent ----- 3.00
- (t) For special service to expedite furnishing items or services ahead of regular order:
 On orders for copies of U.S. patents and trademark registrations, in addition to the charge for the copies, for each copy ordered ----- 0.50
 On all other orders or requests for which special service facilities are available, in addition to the regular charge, a special service charge equal to the amount of regular charge; minimum special service charge per order or request ----- 1.00
- (u) Deposit account, service charge for each month when the balance at the end of the month is below \$40 ----- 2.00
- (v) For items and services, that the Commissioner finds may be supplied, for which fees are not specified by statute or by this section, such charges as may be determined by the Commissioner with respect to each such item or service.
- (w) For preparing an international-type search report of an international-type search made at the time of the first action on the merits in a national patent application ----- 25.00

NOTE.—The Patent and Trademark Office does not require that a formal report be prepared of an international-type search in order to obtain a search fee refund in a later filed international application. For fees relating to processing of international applications, see § 1.445.

37 CFR 1.445 International application filing and processing fees. (a) The following fees and charges are established by the Patent and Trademark Office under the authority of 35 U.S.C. 376:

(1) A transmittal fee (see 35 U.S.C. 361(d) and PCT Rule 14)—\$35.00.

(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16)—\$300.00.

(3) A supplemental search fee when required (see PCT Art. 17(3)(a) and PCT Rule 40.2)—\$200.00 per additional invention.

(4) The national fee, that is, the amount set forth as the filing fee under 35 U.S.C. 41(a)(1).

(5) A special fee when required (see 35 U.S.C. 372(c))—\$10.00 per claim.

(b) The basic fee and designation fee portions of the international fee shall be as prescribed in PCT Rule 15.

37 CFR 1.22. Fees payable in advance. Fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of making application for any action by the Office for which a fee or charge is payable.

37 CFR 1.23. Method of payment. All payments of money required for Patent and Trademark Office fees, including fees for the processing of international applications (§ 1.445), should be made in United States specie, Treasury notes, national bank notes, post office money orders, or by certified checks. If sent in any other form, the Office may delay or cancel the credit until collection is made. Money orders and checks must be made payable to the Commissioner of Patents and Trademarks. Remittances from foreign countries must be payable and immediately negotiable in the United States for the full amount of the fee required. Money sent by mail to the Patent and Trademark Office will be at the risk of the sender; letters containing money should be registered.

37 CFR 1.24. Coupons. Coupons in denominations of twenty cents and fifty cents are sold by the Patent and Trademark Office for the convenience of regular purchasers of U.S. patents, designs, and trademark registrations; these coupons may not be used for any other purpose. The 20-cent coupons are sold individually and in books of 50 with stubs for record for \$10.00. The 50-cent coupons are sold individually and in pads of 10 for \$5.00 and in books of 50 with stubs for record for \$25.00. These coupons are good until used; they may be transferred but cannot be redeemed.

NOTE: Public document coupons issued by the Superintendent of Documents cannot be used in the Patent and Trademark Office, nor can the coupons issued by the Patent and Trademark Office be used at the Government Printing Office or elsewhere.

37 CFR 1.25. Deposit accounts. (a) For the convenience of attorneys, agents, and the general public in ordering services offered by the Office, copies of records, etc., special deposit accounts may be established in the Patent and Trademark Office. A minimum deposit of \$50.00 or more, depending on the activity of the individual account, is required. At the close of each month's business, a statement will be rendered. A remittance must be made promptly upon receipt of the statement to cover the value of items or services charged to the account and thus restore the account to its established normal deposit value. An amount suf-

ficient to cover all services, copies, etc., requested must always be on deposit. A service charge will be assessed for each month that the balance at the end of the month is below \$40.00.

(b) Filing issue, appeal, international-type search report, international application processing, and petition fees may be charged against these accounts.

An overdrawn account will be immediately suspended and no charges will be accepted against it until a proper balance is restored, together with a payment of ten dollars to cover the work done by the Patent and Trademark Office incident to suspending and reinstating the account and dealing with charges which may have been made in the meantime. It is expected, however, that reasonable precautions will be taken in all cases to avoid overdrafts, and if an account is suspended repeatedly it will be necessary to close it.

Similarly, because of the burden placed on the Patent and Trademark Office incident to the operation of deposit accounts, a charge of ten dollars will be made for opening each new account.

The Patent and Trademark Office will accept lists of fifty (50) or more patent numbers arranged in numerical sequence to be supplied and charged to deposit accounts. Service charges, such as Special Handling and Air Mail postage for these orders, may also be charged to Deposit Accounts.

37 CFR 1.26. Refunds. Money paid by actual mistake or in excess, such as a payment not required by law, will be refunded, but a mere change of purpose after the payment of money, as when a party desires to withdraw his application or to withdraw an appeal, will not entitle a party to demand such a return. Refund of a portion of any international search fee paid to the Patent and Trademark Office may be made where the prior art search made during the subsequent examination of a national application is wholly or partly based on the earlier international search made in the international application for which the search fee was paid. The amount of the refund will be as determined by the examiner according to the value of the prior international search made by the Patent and Trademark Office as an International Searching Authority, as 90 percent, 45 percent, or 0 percent of the international search fee. If the amount of the refund is not a multiple of \$5, it will be rounded to the next higher multiple of \$5. (Note § 1.446 for refund of the search fee in an international application). Amounts of ten cents or less will not be returned unless specifically demanded, within a reasonable time, nor will the payer be notified of such amount; amounts over ten cents but less than one dollar may be returned in postage stamps, and other amounts by check.

510 Patent and Trademark Office Business Hours

The Patent and Trademark Office working hours are 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays in the District of Columbia. Outside these hours, only Patent and Trademark Office employees are authorized to be in areas of the Patent and Trademark Office other than the Public Search Rooms.

The hours for the Public Search Room are 8:00 a.m. to 8:00 p.m., and the hours for the Trademark Search Room are 8:00 a.m. to 6:00 p.m., Monday through Friday, excluding legal holidays in the District of Columbia.

During working hours, all applicants, attorneys, and other members of the public should announce their presence to the Office personnel in the area of their visit. In the examining groups, visitors should inform the group receptionist of their presence before visiting other areas of the group.

REGULATIONS FOR THE PUBLIC USE OF RECORDS IN THE PUBLIC SEARCH ROOM FOR PATENTS OF THE PATENT AND TRADEMARK OFFICE

The Patent and Trademark Office has established procedures and Regulations for using the facilities of the Public Search Room for Patents. The procedures for the Search Room include the requirement that users obtain and show, prior to entering the Search Room facilities, a User Pass. This pass can be obtained at the receptionist's desk in the lobby of Building 3. User Passes will be issued to persons not under prohibition from using the search facilities who agree to abide by the Regulations of the Public Search Room for Patents by signing a statement to that effect. User Passes are non-transferable and are valid until reissue or revocation for cause. Office employees must show their building pass in order to enter the Public Search Room.

The procedures also include the requirement that persons entering and exiting the Search Room use designated lanes. Persons exiting the Search Room will automatically pass electronic sensing equipment designed to detect any marked documents or materials being removed from the Search Room. The sensing equipment is capable of detecting marked documents and materials in briefcases and parcels and under clothing. The equipment does not use X-ray or other high energy radiation and is, therefore, completely safe and harmless to persons, photographic film, magnetic tape and electronic or mechanical devices such as wristwatches. The Patent and Trademark Office is now preparing older documents in the Classified and Application files for use under this system. New

patents are marked for sensing before being placed in the Classified files.

Whenever a marked document is transported past the sensing equipment, Patent and Trademark Office officials and the security guards will be alerted to the removal of the document, and a gate on the exit lane will lock. Persons triggering the alarm will be asked to cooperate in identifying the source for the alarm. Failure to cooperate when the alarm is triggered could result in detention of the person, seizure of any briefcase or the like, or other legal measures deemed necessary and appropriate in the specific case.

The Regulations for the Search Room are reprinted in a Regulation brochure. It is available in the Search Room. In order to maintain an environment conducive to research, the Regulations will be strictly enforced.

Although these procedures and Regulations may cause some inconvenience, it is hoped that with understanding and cooperation they will result in improvement in search facilities which will benefit all participants in the U.S. patent system.

Persons violating the regulations may be denied the use of the facilities in the Public Search Room for Patents, and may further be subjected to prosecution under the Criminal Code. Additionally, the name of any person violating these regulations who is registered to practice before the Patent and Trademark Office may be forwarded to the Solicitor for appropriate action under 37 CFR 1.348.

USE OF PATENT EXAMINING GROUP FACILITIES

The primary function of the Patent and Trademark Office is the examination of applications for patents and the issuance of valid patents based upon a search and consideration of the best available prior art. This can be accomplished only through maintaining strict search file integrity within the Patent Examining Group Facilities.

Therefore, the regulations appearing below were established for those authorized members of the Public using the facilities of the Patent Examining Groups.

Although these regulations may cause some inconvenience, it is believed that with the cooperation and understanding of the public, a more efficient and reliable examination system within the Patent Examining Groups will result.

A copy of the following "Regulations for Users of the Patent Examining Group Facilities," is posted in each of the Patent Examining Groups and the Public Search Room for Patents:

REGULATIONS FOR USERS OF THE PATENT EXAMINING GROUP SEARCH FACILITIES

1. Group facilities are defined as those areas in Buildings, 3, 3-4 and 4 of Crystal Plaza designated Examining Groups.
2. The use of the Group facilities for search purposes by members of the public is strictly limited to the search of materials not available in the Public Search Room for Patents or the Scientific Library and when it does not conflict with the regular business of Patent and Trademark personnel and only between the hours of 8:45 a.m. and 4:45 p.m. on regular business days.
3. Authorized Officials, under these Regulations, include Supervisory Patent Examiners and Examining Group Directors.
4. Under applicable statutes and regulations, including 40 U.S.C. 486(c); 41 CFR Subpart 101-20.3; and appropriate Sections of Department Organization Orders 30-3A and 30-3B of the Department of Commerce, the Regulations appearing below are established for those members of the public using the Group Facilities.
 - A. All persons using these facilities are subject to the Regulations Governing Conduct on Federal Property, as specified in 41 CFR Subpart 101-20.3.
 - B. All posted Official Notices are to be complied with.
 - C. A valid User Pass must be prominently displayed when searching in the Group Facilities. User Passes are nontransferable and must be surrendered upon request to authorized officials.
 - D. All persons holding User Passes must register with the Group Receptionist, unless otherwise directed, in each Examining Group where they search and must sign a log (e.g., indicating time-in, time-out, name, User Pass number, class(es) and subclass(es) searched).
 - E. No patents, records or other documents of the Patent and Trademark Office shall be removed from the Group Facilities except by express written authorization by an authorized official in the Examining Group where the material resides. Such authorization will not be given for U.S. patents and other material readily available through the Scientific Library.

- F. Smoking is not permitted except in designated areas.
 - G. No food or beverages in any form are to be consumed except in designated areas.
 - H. Loud talking, use of radios, and any other form of activity which may disturb other members of the public or Patent and Trademark Office personnel are forbidden.
 - I. Children brought into the Group Facilities must not be allowed to disturb others.
 - J. The presence or use of equipment such as dictation equipment, reproducing machines, typewriters and photographic equipment is prohibited without prior permission from an authorizing official in the Examining Group where the use is intended and then is permitted where its use does not conflict with Regulation H.
 - K. Patents and other documents must not be removed from their shoes for any reason other than for cursory study thereof while kept in close proximate association with the shoe and must not be moved out of their normal sequence.
 - L. All patent shoes must be promptly replaced in their proper location in the shoe case.
 - M. All textbooks, journals and the like must be returned to their proper location.
 - N. The reserving of seats and/or working areas is prohibited.
 - O. All packages, briefcases or other personal effects brought into the Group Facilities are subject to search by authorized officials upon request and must be removed when leaving the Group Facilities.
 - P. All verbal requests for compliance with these regulations of other posted Patents and Trademark Office Notices pertaining to activity in the Group Facilities, when made by authorized officials, must be promptly complied with.
5. Persons violating these regulations may be denied the use of the facilities in the Examining Groups and Public Search Room for Patents, and may further be subject to prosecution under the Criminal Code. Additionally, the name of any person violating these regulations who is registered to practice before the Patent and Trademark Office may be forwarded

to the Solicitor for appropriate action under 37 CFR 1.348.

If any individual is observed in violation of any of the regulations, immediate compliance should be be courteously requested. If a verbal request is not complied with, a note should be made of the individual's name and User's Pass number, if possible (the User's Pass is required to be prominently displayed) and report the incident to the Supervisory Primary Examiner, Supervisory Patent Assistant or other appropriate supervisor who will take further action.

In addition, if any individual in a search area appears to be a stranger and is not wearing a User's Pass, some identification, such as a Building or User's Pass should be requested. If the individual refuses, notify a supervisor. Consequently, all Office employees are expected to carry their Building Pass with them at all times, especially when searching outside of their assigned groups.

Supervisors, when aware of violations of the posted regulations should prepare a memorandum detailing the facts of the incident and forward this memorandum to the Deputy Assistant Commissioner for Patents via their Group Director. Supervisory Patent Examiners and Group Directors are authorized to demand surrender of User Passes on-the-spot. If the Supervisory Patent Examiner exercises this function, the Group Director should be immediately notified followed up by a memorandum as previously set forth.

511 Postal Service Emergency Contingency Plan

The U.S. Patent and Trademark Office is establishing the following contingency plan for filing any paper or paying any fee in the Office in the event of an emergency caused by any major interruption in the mail service in the United States. Upon determination by the Commissioner of Patents and Trademarks that such an emergency exists, a notice activating the plan will be issued by the Commissioner. The activating notice will be published in the Wall Street Journal and made available by telephone at area code 703, 557-3158. Also, certain publications, patent bar groups, and other organizations closely associated with the patent system, will be notified. Termination of the program will be similarly announced. Where the postal emergency is not nationwide, the Commissioner will designate the areas of the United States in which the procedures outlined below will be in effect.

U.S. Department of Commerce District Offices (formerly referred to as Department of

Commerce Field Offices) will be designated on an emergency basis, as receiving stations for filing papers and paying fees in the U.S. Patent and Trademark Office.

Upon determination that an emergency exists, the following procedures may be followed: All papers and fees should be enclosed in a sealed envelope addressed to the Patent and Trademark Office and deposited in one of the District Offices. Such papers will be considered as received in the U.S. Patent and Trademark Office on the day of deposit. The District Office will date stamp each envelope and the accompanying receipt card which completely identifies the deposited papers. The receipt card will be returned to the depositor. Applicants or their representatives should assure the legibility of the date stamp.

District Office deposits should be limited to checks in payment of issue fees, new application papers wherein priority dates or statutory bars may be involved, amendments where the six month statutory period for response is about to expire, trademark oppositions, Section 8 affidavits, trademark renewals, and to other papers for which the patent and trademark statutes do not provide a remedy for failure to obtain a particular date.

Where papers originate from overseas, it is suggested that the papers be mailed to a registered agent in Canada, with a request that the papers be forwarded by courier to the nearest District Office in the United States.

In regard to pending applications, if the time for taking any action or paying any fee expires during the period that the Commissioner declares to be an emergency, the time will be extended until one month after the end of the emergency period, provided that such extension does not exceed the maximum period for response provided for in the statutes.

Since this extension of time will be automatic, there will be no record in the individual files to indicate that a response filed during the extended period is in fact timely. In order to provide a complete record, applicants or their representatives should file a paper referring to this notice in each case in which a response is filed during the extended period.

The addresses of the Department of Commerce District Offices, subject to subsequent changes, are as follows:

ALABAMA

Birmingham—Gayle C. Shelton, Jr., Director, Suite 200-201, 908 South 20th Street, 35205, Area Code 205 Tel 254-1331.

ALASKA

Anchorage—Sara L. Haslett, Director, 412 Hill Building, 632 Sixth Avenue 99501, Area Code 907 Tel 265-5307.

ARIZONA

Phoenix—Donald W. Fry, Director, Suite 2950 Valley Bank Center, 201 North Central Avenue 85073, Area Code 602 Tel 261-3285.

ARKANSAS

•Little Rock (Dallas, Texas District)—1100 North University, Suite 109 72207, Area Code 501 Tel 378-5157.

CALIFORNIA

Los Angeles—Eric C. Silberstein, Director, Room 800, 11777 San Vicente Boulevard 90049, Area Code 213 Tel 824-7591.

•San Diego—233 A Street, Suite 310 92101, Area Code 714 Tel 293-5395.

San Francisco—Philip M. Creighton, Director, Federal Building, Box 36013, 450 Golden Gate Avenue 94102, Area Code 415 Tel 556-5860.

COLORADO

Denver—Norman Lawson, Director, Room 165, New Customhouse, 19th & Stout Street 80202, Area Code 303 Tel 837-3246.

CONNECTICUT

Hartford—Richard C. Kilbourn, Director, Room 610-B, Federal Office Building, 450 Main Street 06103, Area Code 203 Tel 244-3530.

FLORIDA

Miami—Roger J. LaRoche, Director, Room 821, City National Bank Building, 25 West Flagler Street 33130, Area Code 305 Tel 350-5267.

•Clearwater—128 North Osceola Avenue 33515, Area Code 813 Tel 446-4081.

•Jacksonville—815 S. Main Street, Suite 100, 32207, Area Code 904 Tel 791-2796.

•Tallahassee—Collins Bldg., Rm. G-20 32304, Area Code 904 Tel 488-6469.

GEORGIA

Atlanta—David S. Williamson, Director, Suite 600, 1365 Peachtree Street, N.E. 30309, Area Code 404 Tel 881-7000.

Savannah—James W. McIntire, Director, 222 U.S. Courthouse & P.O. Box 9746, 125-29 Bull Street 31402, Area Code 912 Tel 232-4321, Ext. 204.

HAWAII

Honolulu—John S. Davies, Director, 4106 Federal Building, P.O. Box 50026, 300 Ala Moana Boulevard, 96850, Area Code 808 Tel 546-8694.

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ILLINOIS

Chicago—Gerald M. Marks, Director, 1406 Mid Continental Plaza Building, 55 East Monroe Street 60603, Area Code 312 Tel 353-4450.

INDIANA

Indianapolis—Mel R. Sherar, Director, 357 U.S. Courthouse & Federal Office Building, 46 East Ohio Street 46204. Area Code 317 Tel 269-6214.

IOWA

Des Moines—Jesse N. Durden, Director, 817 Federal Building, 210 Walnut Street 50309, Area Code 515 Tel 284-4222.

KENTUCKY

•Frankfort (Memphis, Tennessee District)—Capitol Plaza Office Tower, Room 2425, 40601, Area Code 502 875-4421.

LOUISIANA

New Orleans—Edwin A. Leland, Jr., Director, 432 International Trade Mart, No. 2 Canal Street 70130, Area Code 504 Tel 589-6546.

MAINE

•Portland (Boston, Massachusetts District)—Maine State Pier, 40 Commercial Street 04111, Area Code 207 Tel 773-5608.

MARYLAND

Baltimore—Carroll F. Hopkins, Director, 415 U.S. Customhouse, Gay and Lombard Streets 21202, Area Code 301 Tel 962-3560.

MASSACHUSETTS

Boston—Francis J. O'Connor, Director, 10th Floor, 441 Stuart Street 02116, Area Code 617 Tel 223-2312.

MICHIGAN

Detroit—William L. Welch, Director, 445 Federal Building, 231 West Lafayette 48226, Area Code 313 Tel 226-3650.

•Grand Rapids—350 Ottawa Street N.W. 49503, Area Code 616 Tel 456-2411/33.

MINNESOTA

Minneapolis—Glenn A. Matson, Director, 218 Federal Building, 110 South Fourth Street 55401, Area Code 612 Tel 725-2133.

MISSISSIPPI

•Jackson (Birmingham, Alabama District)—P.O. Box 849, 1202 Walter Sillers Building 39205, Area Code 601 Tel 969-4388.

MISSOURI

St. Louis—Donald R. Loso, Director, 120 South Central Avenue 63105, Area Code 314 Tel 425-3302-4.

•Kansas City—Room 1840, 601 East 12th Street 64106, Area Code 816 Tel 374-3142.

•Denotes Trade Specialist.

MONTANA

•Butte (Cheyenne, Wyoming District)—225 S. Idaho Street, Room 101 P.O. Box 3809, 59701, Area Code 406 Tel 723-6561, Ext. 2317.

NEBRASKA

Omaha—George H. Payne, Director, Capitol Plaza, Suite 703A, 1815 Capitol Avenue 68102, Area Code 402 Tel 221-3665.

NEVADA

Reno—Joseph J. Jeremy, Director, 777 W. 2nd Street, Room 120, 89503, Area Code 702 Tel 784-5203.

NEW JERSEY

Newark—Clifford R. Lincoln, Director, 4th Floor, Gateway Building, Market Street & Penn Plaza 07102, Area Code 201 Tel 645-6214.

NEW MEXICO

Albuquerque—William E. Dwyer, Director, 505 Marquette Ave., NW, Suite 1015, 87102, Area Code 505 Tel 766-2386.

NEW YORK

Buffalo—Robert F. Magee, Director, 1312 Federal Building, 111 West Huron Street 14202, Area Code 716 Tel 846-4191.

New York—Arthur C. Rutzen, Director, Room 3718, Federal Office Building, 26 Federal Plaza, Foley Square 10007, Area Code 212 Tel 264-0634.

NORTH CAROLINA

Greensboro—Joel B. New, Director, 203 Federal Building, West Market Street, P.O. Box 1950 27402, Area Code 919 Tel 378-5345.

•Asheville—151 Haywood Street 28802, Area Code 704 Tel 254-1981.

OHIO

Cincinnati—Gordon B. Thomas, Director, 10504 Federal Office Building, 550 Main Street 45202, Area Code 513 Tel 684-2944.

Cleveland—Charles B. Stebbins, Director, Room 600, 666 Euclid Avenue 44114, Area Code 216 Tel 522-4750.

OKLAHOMA

•Oklahoma City (Dallas, Texas District)—4020 Lincoln Boulevard 73105, Area Code 405 Tel 231-5302.

OREGON

Portland—Lloyd R. Porter, Director, Room 618, 1220 S.W. 3rd Avenue 97204, Area Code 503 Tel 221-3001.

PENNSYLVANIA

Philadelphia—Patrick P. McCabe, Director, 9448 Federal Building, 600 Arch Street 19106, Area Code 215 Tel 597-2850.

Pittsburgh—William M. Bradley, Trade Specialist-in-Charge, 2002 Federal Building, 1000 Liberty Avenue 15222, Area Code 412 Tel 644-2850.

PUERTO RICO

San Juan (Hato Rey)—Enrique Vilella, Director,
Room 659-Federal Building 00918, Area Code 809 Tel
753-4555, Ext. 555.

RHODE ISLAND

•Providence (Boston, Massachusetts District)—1
Weybossett Hill 02903, Area Code 401 Tel 277-2605,
ext. 22.

SOUTH CAROLINA

Columbia—Phillip A. Ouzts, Director, 2611 Forest
Drive, Forest Center 29204, Area Code 803 Tel 765-
5345.

•Charleston—Suite 631, Federal Building, 334 Meeting
Street 29403, Area Code 803 Tel 577-4361.

TENNESSEE

Memphis—Bradford H. Rice, Director, Room 710, 147
Jefferson Avenue 38103, Area Code 901 Tel 521-3213.

•Nashville—Room 1004 Andrew Jackson Office Bldg.
37219, Area Code 615 Tel 297-5233.

TEXAS

Dallas—C. Carmon Stiles, Director, Room 7A5, 1100
Commerce Street 75242, Area Code 214 Tel 749-1515.

Houston—Felicito C. Guerrero, Director, 2625 Federal
Bldg., Courthouse, 515 Rusk Street 77002, Area Code
713 Tel 226-4231.

•San Antonio—University of Texas at San Antonio,
Div. of Continuing Education 78285, Area Code 512
Tel 229-5875.

UTAH

Salt Lake City—George M. Blessing, Jr., Director, 1203
Federal Building, 125 South State Street 84138, Area
Code 801 Tel 524-5116.

VIRGINIA

Richmond—(Vacant), 8010 Federal Building, 400
North 8th Street 23240, Area Code 804 Tel 782-2246.

•Fairfax—8550 Arlington Blvd., 22031, Area Code 703
560-6460.

WASHINGTON

Seattle—Judson S. Wonderly, Director, Room 706,
Lake Union Building, 1700 Westlake Avenue North
98109, Area Code 206 Tel 442-5615.

WEST VIRGINIA

Charleston—Roger L. Fortner, Director, 3000 New Fed-
eral Building, 500 Quarrier Street 25301, Area Code
304 Tel 343-6181, ext. 375.

WISCONSIN

Milwaukee—Russell H. Leitch, Director, Federal Bldg/
U.S. Courthouse, 517 East Wisconsin Avenue 53202,
Area Code 414 Tel 291-3473.

WYOMING

Cheyenne—Lowell O. Burns, Director, 6022 O'Mahoney
Federal Center, 2120 Capitol Avenue 82001, Area
Code 307 Tel 778-2220, ext. 2151.

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512 Certificate of Mailing

37 CFR 1.8. Certificate of mailing. (a) Except in the cases enumerated below, papers and fees required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if (1) they are addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231, and deposited with the United States Postal Service with sufficient postage as first class mail prior to expiration of the set period, and (2) they are accompanied by a certificate stating the date of deposit (see forms, §§ 3.55 and 4.23). The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed on or before the date indicated. The actual date of receipt of the paper or fee will be used for all other purposes. This procedure does not apply to the following:

- (i) The filing of national applications for patent;
- (ii) The filing of trademark applications;
- (iii) The filing of agreements between parties to an interference under 35 U.S.C. 135(c);
- (iv) The filing of an affidavit showing that a mark is still in use or containing an excuse for nonuse under Section 8 (a) or (b) or Section 12(c) of the Trademark Act, 15 U.S.C. 1058(a), 1058(b), 1062(c);
- (v) The filing of an application for renewal of a mark registration under Section 9 of the Trademark Act, 15 U.S.C. 1059;
- (vi) The filing of a petition to cancel a registration of a mark under Section 14 (a) or (b) of the Trademark Act, 15 U.S.C. 1064(a), 1064(b);
- (vii) The filing of an affidavit under Section 15, subsection (3) of the Trademark Act, 15 U.S.C. 1065;
- (viii) The filing of a notice of election to proceed by civil action in an inter partes proceeding under 35 U.S.C. 141 or Section 21(a) (1) of the Trademark Act, 15 U.S.C. 1071(a) (1), in response to another party's appeal to the Court of Customs and Patent Appeals;
- (ix) The filing of a notice and reasons of appeal under 35 U.S.C. 142 or a notice of appeal under Section 21(a) (2) of the Trademark Act, 15 U.S.C. 1071(a) (2); and
- (x) The filing of a statement under 42 U.S.C. 2182 or 42 U.S.C. 2457(c).

(xi) The filing of international applications for patent and papers relating thereto.

(b) In the event that correspondence or fees are timely filed in accordance with paragraph (a) of this section, but not received in the Patent and Trademark Office, and the application is held to be abandoned or the proceeding dismissed, terminated, or decided with prejudice, the correspondence or fee will be considered timely if the party who forwarded such correspondence or fee (1) informs the Office of the previous mailing of the correspondence or fee promptly after becoming aware of the Office action, (2) supplies an additional copy of the previously mailed correspondence or fee and certificate, and (3) includes a declaration under § 1.68 or § 2.20 which attests on a

personal knowledge basis or to the satisfaction of the Commissioner to the previous timely mailing.

37 CFR 3.55. A suggested format for the certificate under 37 CFR 1.8(c) to be included with the correspondence. I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on -----

Date

Name of applicant, assignee,
or Registered Representative

Signature

Date

37 CFR 1.8 and suggested form 37 CFR 3.55 for patent cases establish a practice before the Patent and Trademark Office which is referred to as the "Certificate of Mailing Procedure." Under this procedure, a person may state on certain papers directed to the Office (exceptions are stated in § 1.8), the date on which the paper will be deposited in the United States Postal Service. If the date of deposit is within the period for response, the response in most instances will be considered to be timely. This is true even if the paper does not actually reach the Office until after the end of the period for response. The Certificate of Mailing procedure does not apply to papers mailed in a foreign country.

It should be noted, however, that the Office will continue its normal practice of stamping the date of receipt (Mail Room Stamp) on all papers received through the mails. The date of receipt will also be the date which is entered on Office records and from which any subsequent periods are calculated. For example, 37 CFR 1.192 gives an appellant 2 months from the date of the appeal to file his appeal brief. For example, if the last day to respond to a final rejection was November 10, 1976, and applicant deposited a Notice of Appeal with fee in the U.S. mail on November 10, 1976 and so certified, that appeal is timely even if it was not received in the Patent and Trademark Office until November 17, 1976. Since the date of receipt will be used to calculate the time at which the brief is due, the brief was due on January 17, 1977. This is 2 months after the Mail Room date.

Procedure by Applicant

(A) The certification requires a signature. Specifically, if the certification appears on a paper that requires a signature, two signatures are required, one for the paper and one for the certification. Although not specifically required by 37 CFR 1.8, it is preferred that the certificate

be signed by the applicant, assignee, or registered practitioner.

(B) When possible, the certification should appear on a portion of the paper being submitted. However, if there is insufficient space to make the certification on the same paper, such as in the case of the patent issue fee transmittal form PTO-85, the certification should be on a separate sheet securely attached to the paper.

(C) When the certification is presented on a separate sheet, that sheet must (1) be signed and (2) fully identify and be securely attached to the paper it accompanies. The required identification should include the serial number and filing date of the application as well as the type of paper being filed, e.g., response to rejection or refusal, Notice of Appeal, etc. An unsigned certification will not be considered acceptable.

Moreover, without the proper identifying data, a certification presented on a separate sheet will not be considered acceptable if there is any question or doubt concerning the connection between the sheet and the paper filed.

If the sheet should become detached from the paper and thereafter not associated with the appropriate file, evidence that this sheet was received in the Office can be supported by submitting a copy of a post card receipt specifically identifying this sheet and the paper and by submitting a copy of the sheet as originally mailed. Attention is directed to § 503 relative to the use of post cards as receipts.

(D) In situations wherein the correspondence includes papers for more than one application (e.g., a single envelope containing separate papers responding to Office actions in different applications) or papers for various parts of the Office (e.g., a patent issue fee transmittal form PTO-85 and an assignment), each paper must have its own certification as a part thereof or attached thereto.

(E) In situations wherein the correspondence includes several papers directed to the same application (for example, a proposed response under 37 CFR 1.116 and a Notice of Appeal), each paper should have its own certification as a part thereof or attached thereto.

Use of Stamped Certification

Some practitioners place the certification language on the first page of a paper with an inked stamp. Such a practice is encouraged because the certification is not only readily visible but also form an integral part of the paper. An example of a preferred stamp is:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commis-

sioner of Patents and Trademarks, Washington, D.C.
20231, on -----

(Date of Deposit)

Name of applicant, assignee, or
Registered Representative

Signature

Date of Signature

Office Procedure

Mail Room

The Mail Room will continue to date stamp the actual date of receipt of all papers received by mail in the Office. No attempt will be made to retain the envelopes in which the papers are received or to indicate on the papers the postal cancellation date (post mark).

Processing Areas

When papers are received in an examining group, the date of receipt in the group should be stamped on the papers as at present.

The date of deposit indicated on the Certificate of Mailing will be used by the Office only to determine if the paper was deposited in the United States Postal Service within the period for response. If the paper was actually received in the Office within the period for response, there is no need to refer to the Certificate, or to note the date of deposit in the U.S. mail.

If, however, the paper was received in the Patent and Trademark Office after the end of the period for response, the paper should be inspected to determine if a Certificate of Mailing has been included. Where no such Certificate is found, the paper is untimely since applicant did not respond within the period for response. This may result in abandonment of the application or other loss of rights.

In those instances where a Certificate of Mailing does appear in the paper or a cover letter thereto, a check should be made to determine whether the indicated date of deposit is within the period for response. If the date of deposit indicated in the Certificate is after the end of the period for response, the paper is untimely and no notation of the date of deposit need be made. Where the date of deposit indicated on the Certificate of Mailing is within the period for response, the paper should be considered to be timely filed. A notation should be made

adjacent to the Office stamp indicating the date of receipt (Mail Room Stamp) which notes the date of deposit stated on the Certificate of Mailing. This notation should be "C of Mail" followed by the date. A paper deposited on November 10, 1976, would be noted next to the Mail Room Stamp "(C of Mail. 11/10/76)." This notation should also appear on the "Contents" portion of the file wrapper. This notation may also be placed on the record cards where it is considered desirable.

If the period set for taking an action in the Patent and Trademark Office ends on a Saturday, Sunday or holiday within the District of Columbia (37 CFR 1.7), the action will be considered to be timely if deposited in the United States mail and certified under 37 CFR 1.8(a) on the next succeeding day which is not a Saturday, Sunday, or a holiday.

It should be noted that the mailing of a paper such as form 3.54 for the purpose of obtaining a continuation or division application under 37 CFR 1.60 is excluded from the Certificate of Mailing practice under 37 CFR 1.8(a) (i) since it is considered to be the filing of a patent application.

All Certificates of Mailing filed in applications should be placed in the file wrappers directly below the papers to which they refer.

Since the delay in receiving responses is usually small, there is no change in the time schedule used to pull abandoned applications.

Original Mailed Paper Not Delivered

Paragraph (b) of new rule 1.8 concerns the situation where a paper containing a Certificate of Mailing was timely deposited in the U.S. mail, but never received by the Patent and Trademark Office. This paragraph provides that the person who forwarded such a paper may (1) inform the Office of the previous mailing of the paper, (2) supply a duplicate copy of the previously mailed paper and Certificate of Mailing, and (3) make a declaration which attests to the previous timely mailing. If the conditions of paragraph (b) have been satisfactorily fulfilled, the earlier mailed, but un-received paper, will be considered as having been timely deposited on the date stated in the original Certificate. In the examining groups, all such declarations should be considered and the sufficiency thereof determined by the Group Director.