

to (703) 872-9411, marked to the attention of Robert Clarke. Although comments may be submitted by mail or facsimile, the Office prefers to receive comments via the Internet. If comments are submitted by mail, the Office would prefer that the comments be submitted on a DOS formatted 3 1/2 inch disk accompanied by a paper copy.

The comments will be available for public inspection at the Office of Patent Legal Administration, Office of the Deputy Commissioner for Patent Examination Policy, located at Room 3D65 of Crystal Plaza 3/4, 2201 South Clark Place, Arlington, Virginia, and will be available through anonymous file transfer protocol (ftp) via the Internet (address: <http://www.uspto.gov>). Since comments will be made available for public inspection, information that is not desired to be made public, such as an address or phone number, should not be included in the comments.

**FOR FURTHER INFORMATION CONTACT:**

Robert A. Clarke ((703) 305-9177), Senior Legal Advisor, or Robert J. Spar ((703) 308-5107), Director, Office of Patent Legal Administration (OPLA), directly by phone, or by facsimile to (703) 305-1013, marked to the attention of Mr. Clarke, or by mail addressed to: Box Comments—Patents, Commissioner for Patents, Washington, DC 20231.

**SUPPLEMENTARY INFORMATION:** The Office is increasing the integrity of its internal patent application record maintenance by adopting a new electronic data processing system for the storage and maintenance of all the records associated with patent applications. Because the system is consistent with the data processing system used by the European Patent Office (EPO), it will also improve information exchange among the Intellectual Property Offices.

The system will use image technology to replace the standard paper processing of patent applications currently used in the Office. The paper document application file contents (including the specification, oath or declaration, drawings, information disclosure statements, amendments, Office actions, and file jacket notations) of pending applications will be scanned into electronic image files. All processing and examination will be performed with the electronic image files, instead of the paper source documents, by all Office personnel.

The system will affect applicants minimally during the patent application process, because the program affects internal operations and not external communications. Applicants will continue to send and receive Office

correspondence in paper form, although the Office encourages use of the existing alternative electronic filing system resources for application filings and certain information disclosure statement submissions. The proposed changes to the rules of practice in title 37 of the Code of Federal Regulations (CFR) are designed to improve internal operations' use of the electronic format, primarily by easing the requirements upon applicants in amendment practice and information disclosure statement submissions. The electronic nature of patent records permits their viewing by the public through the Patent Application Information Retrieval (PAIR) system, which has a number of advantages: it provides notice to applicants of certain examination processing activities (e.g., mailing of Office actions); it assures confidence in the integrity of the Office records; it reduces the handling of the records; and it allows parallel processing of the application by various parts of the Office.

The technology and procedures for the new system are similar to those used at the EPO, but adapted to the Office's legal requirements and existing computer systems. The Office has incorporated the experience and lessons learned from the previously announced prototype program (*USPTO Announces Prototype of Image Processing*, 1265 *Off. Gaz. Pat. Office* 87 (December 17, 2002)) into a production system for all patent applications.

The electronic format of applications will reduce delays in moving information within the Office and between the Office, the applicant, other Intellectual Property (IP) Offices and other parties having authority to view the records. It will also reduce the potential for loss of records and misfiling, provide the capacity for multiple parties to access the records simultaneously, improve the efficiency of the publication process, and set the Office up for subsequent improvements in electronic communication related to applications between the Office, the applicant, and other parties.

It is also anticipated that the system will facilitate the sharing of information between the Office and other IP Offices. The Office anticipates that agreements to electronically transmit priority documents to certain other IP Offices as well as search results and other application information will be negotiated shortly. Transmission of priority documents electronically directly to the other IP Offices on request of the applicant is anticipated to reduce the overall costs to the applicant and to the other IP Offices (which

would receive the certified copy in a format that is easily stored and retrieved on demand). In tandem with this effort is a parallel effort to promote the sharing of information (e.g., search results) concerning related applications by the various IP Offices in order to reduce duplication of efforts, improve the efficiency and quality of examination efforts, and decrease workload. Thus, it is anticipated that the Office's migration to an electronic environment together with international negotiations will improve the efficiency and work quality of the Office.

**Discussion of Specific Rules**

*Section 1.3:* Section 1.3 is proposed to be amended to provide that papers presented in violation of the decorum and courtesy requirement will not be entered. The Office is capturing electronic images of all documents (papers) that will be the official records of certain applications. If the Office has captured the image as an electronic sheet(s), the Office would electronically remove the document from the Official file (the collection of documents related to a patent application or patent and which would be in this instance an electronic file) and from the Office computer systems. If the Office has not captured the image, the paper would not be entered in the Official file (which would in this instance be a paper file). In either event, the Office would provide notice in the Official file that the paper will not be available to the public. If the paper is intended as a reply to an Office action, the reply will not be considered a *bona fide* reply under § 1.135(c) and the period set in the prior Office action will continue to run. Similarly, a paper submitted in violation of § 10.10(b) that is intended as a reply will not be entered in the Official file and will not be treated as an unsigned reply (nor as a signed reply). Therefore, the reply will not toll the time period set in a prior Office action.

*Section 1.9:* Section 1.9 is proposed to be amended to clarify that the word "paper" and "papers" refer to a document or documents, which may be electronic records or physical paper sheet(s).

*Section 1.14:* Section 1.14 explains that applications for patents are generally preserved in confidence, and sets forth the special circumstances (35 U.S.C. 122(a)) under which a member of the public may have information about, copies of, or access to a patent application. Section 1.14 is proposed to be revised to clarify the rule and to expand the rule to provide for electronic files and electronic exchange of documents.