

application that papers in violation of § 10.10(b) had been submitted.

Response: The Office did not propose to revise § 10.10(b). Therefore, the comment was not germane to the changes to the rules of practice that are currently under consideration. The Office will consider the comment, and may reconsider its current practice or propose revisions to its rules of practice, in the future.

Comment 30: One comment requested that the Office explicitly provide for the inclusion of a path, file name, date and time of creation corresponding to the location of an application's specification on applicant's hard drive within the application's specification or within some other document submitted with the application.

Response: The Office's current rules of practice permit inclusion of this material within the transmittal letter accompanying a new application filing or an amendment document.

Comment 31: One comment suggested that the Office permit or require filing in Adobe "pdf" format, preferably preserving the text portion as searchable text. It was also suggested that the Office consider "freezing" the format of Adobe used in order to prevent increased costs.

Response: The Office is exploring the business implications of accepting information submitted in an Adobe "pdf" format, and is assessing the legal, business, and technical issues of permitting applications to be filed in this format.

Comment 32: An inquiry concerning data security was received.

Response: Efforts to safeguard data security are not germane to this rule making and will be discussed by separate document.

Comment 33: One comment inquired how the Office was planning to safeguard against facilitating identity theft when it posts images of application data on line.

Response: The image file wrapper of an issued patent or published patent application including any signatures included therein is a public document that the Office intends to make publicly available. The Office plans to make these records available for public inspection over the Internet by October 2004. While the Office is actively considering adopting electronic signatures, there is currently no special efforts to safeguard the signatures included in the image file wrapper of applications that are currently pending or any of the signatures submitted in applications filed after a rule change to permit electronic signatures. It is also noted that image copies of any publicly available patent application or patent

file are already available from a number of private sector vendors. Therefore, the Office's plan to make the image file wrapper of patents and published applications available for public inspection over the Internet does not increase the risk of identity theft.

Rule Making Considerations

Administrative Procedure Act

This notice adopts changes to the rules of practice that facilitate electronic image record management of patent application files to support the beginning-to-end electronic processing of patent applications. The changes are limited to the format for and the manner of making amendments to patent applications, the handling of patent applications and other papers within the Office and the manner of filing information disclosure statements. Accordingly, this final rule involves rules of agency practice and procedure under 5 U.S.C. 553(b)(A). *See Bachow Communications Inc. v. FCC*, 237 F.3d 683, 690 (D.C. Cir. 2001). Accordingly, this final rule may be adopted without prior notice and opportunity for public comment under 5 U.S.C. 553(b) and (c), or thirty-day advance publication under 5 U.S.C. 553(d).

Regulatory Flexibility Act

As prior notice and an opportunity for public comment are not required pursuant to 5 U.S.C. 553 (or any other law), the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are inapplicable. As such, the regulatory flexibility analysis is not required, and none has been provided. *See* 5 U.S.C. 603.

Executive Order 13132

This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866

This rule making has been determined to be not significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act

This rule making involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collections of information involved in this final rule have been reviewed and previously approved by OMB under the following control numbers 0651-0021, 0651-0031, 0651-0032 and 0651-0033. The United States Patent and Trademark

Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this proposed rule would not affect the information collection requirements associated with the information collection under OMB control numbers 0651-0021, 0651-0031, 0651-0032 and 0651-0033.

The title, description and respondent description of each of the information collections is shown below with an estimate of the annual reporting burdens. Included in the estimate is the time for reviewing instructions, gathering and maintaining the data needed, and completing and reviewing the collection of information. The principal impacts of the changes in this proposed rule are to (1) expressly provide for the electronic submission of an information disclosure statement; (2) provide for a slight change in the format of an application being filed in order to accommodate for the scanning and indexing of different sections of the application file; and (3) provide for a change in the manner of making amendments to an application consistent with the Office's efforts to establish a patent electronic image management system.

OMB Number: 0651-0021.

Title: Patent Cooperation Treaty.

Form Numbers: PCT/RO/101, ANNEX/134, ANNEX/144, PTO-1382, PCT/IPEA/401, PCT/IB/328, PTO/SB/61/PCT, PTO/SB/64/PCT.

Type of Review: Approved through December of 2003.

Affected Public: Individuals or Households, Business or Other For-Profit, Federal Agencies or Employees, Not-for-Profit Institutions, Small Businesses or Organizations, Farms, and State, Local or Tribal Government.

Estimated Number of Respondents: 331,407.

Estimated Time Per Response: 0.25 (15 minutes) to 4.0 (4 hours).

Estimated Total Annual Burden Hours: 401,202 hours.

Needs and Uses: The information collected is required by the Patent Cooperation Treaty (PCT). The general purpose of the PCT is to simplify the filing of patent applications on the same invention in different countries. It provides for a centralized filing procedure and a standardized application format.

OMB Number: 0651-0031.

Title: Patent Processing (Updating).

Form Numbers: PTO/SB/08A, PTO/SB/08B, PTO/SB/21-27, PTO/SB/30-32, PTO/SB/35-37, PTO/SB/42-43, PTO/SB/61-64, PTO/SB/67-68, PTO/SB/91-92, PTO/SB/96-97, PTO-2053-A/B, PTO-2054-A/B, PTO-2055-A/B.