

Dated: August 4, 2003.

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 2003-T-024]

RIN 0651-AB68

Reorganization of Correspondence and Other General Provisions

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office ("Office") is amending its rules to separate the provisions for patent matters and trademark matters with respect to filing correspondence, requesting copies of documents, payment of fees, and general information. Specifically, the Office is amending its Rules of Practice in Patent Cases to delete all references to trademark matters, and amending its Rules of Practice in Trademark Cases to add new rules setting forth provisions for corresponding with and paying fees to the Office in trademark cases, and for requesting copies of trademark documents.

EFFECTIVE DATE: September 12, 2003.

FOR FURTHER INFORMATION CONTACT:

Mary Hannon, Office of the Commissioner for Trademarks, by telephone at (703) 308-8910, ext. 137; by e-mail to mary.hannon@uspto.gov; by facsimile transmission addressed to her at (703) 872-9280; or by mail marked to her attention and addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3514.

SUPPLEMENTARY INFORMATION: The Office is amending its rules to separate the provisions for patent and trademark matters with respect to correspondence, requesting copies of documents, payment of fees, and general information. Specifically, the Office is (1) amending 37 CFR Part 1 to delete all references to trademarks, and (2) amending 37 CFR Part 2 to add new rules setting forth provisions for corresponding with and paying fees to the Office in trademark cases, and for requesting copies of trademark documents.

Discussion of Specific Rules

The Office is amending rules 1.1, 1.4, 1.5, 1.6, 1.8, 1.10, 1.12, 1.13, 1.22, 1.26, 2.1, 2.2, 2.6, and 2.123; and adding new rules 2.190, 2.191, 2.192, 2.193, 2.194, 2.195, 2.196, 2.197, 2.198, 2.200, 2.201, 2.206, 2.207, 2.208, and 2.209.

The Office is removing § 1.1(a)(2), amending § 1.1(a) to delete reference to § 1.1(a)(2), amending § 1.1(a)(4) to delete reference to trademark-related documents, and revising the note following § 1.1(f) to delete the reference to "trademark cases."

The Office is removing and reserving § 1.4(d)(1)(iii), amending § 1.4(d)(1)(ii) to change a semicolon to a period, and amending §§ 1.4(a)(1), (a)(2), (b) and (d)(1) to delete references to trademark applications, trademark registrations, and trademark filings.

The Office is removing and reserving § 1.5(c).

The Office is removing and reserving §§ 1.6(a)(4), (d)(7) and (d)(8), and revising §§ 1.6(d), (d)(3), and (d)(4) to delete all references to trademark matters.

The Office is removing and reserving § 1.8(a)(2)(ii).

The Office is amending § 1.10(a) to delete all references to trademark correspondence.

The Office is amending § 1.12(a) to delete all references to trademark assignments.

The Office is amending § 1.13 to delete all references to copies of trademark documents.

The Office is amending § 1.22 to delete all references to trademark fees and trademark registration files.

The Office is amending § 1.26(a) to delete the reference to trademark filing.

The Office is removing and reserving § 2.1, which provides that §§ 1.1 to 1.26 of this chapter apply to trademark cases.

The Office is amending § 2.2 to add definitions of "Director," "Office," "TEAS," and "Federal holiday within the District of Columbia."

The Office is adding a new § 2.6(b)(12), requiring a fee for processing any payment refused or charged back by a financial institution. This is consistent with current § 1.21(m).

The Office is adding a new § 2.6(b)(13), setting forth the fee for establishing a deposit account, and a service charge for each month when the balance at the end of the month is below \$1,000. This is consistent with current §§ 1.21(b)(1) and (2).

The Office is amending § 2.123(f)(2) to change a cross-reference.

The Office is adding a new § 2.190, setting forth the addresses for trademark

correspondence. This is consistent with current §§ 1.1(a)(2) and 1.1(a)(4).

The Office is adding a new § 2.191, providing that business with the Office must be transacted in writing, and that no attention will be paid to any alleged oral promise, stipulation, or understanding. This is consistent with current § 1.2.

The Office is adding a new § 2.192, providing that business must be conducted with decorum and courtesy. This is consistent with current § 1.3.

The Office is adding a new § 2.193, setting forth the requirements for correspondence and signatures in trademark cases. This is consistent with current § 1.4.

The Office is adding a new § 2.194, setting forth the requirements for identifying correspondence relating to trademark applications and registrations. This is consistent with current § 1.5.

The Office is adding a new § 2.195, setting forth the procedures for according filing dates in trademark cases. This is consistent with current § 1.6.

The Office is adding a new § 2.196, providing that when the last day for taking an action or paying a fee falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the action may be taken or fee may be paid on the next succeeding day that is not a Saturday, Sunday, or Federal holiday within the District of Columbia. This is consistent with current § 1.7.

The Office is adding a new § 2.197, setting forth the requirements and procedures for filing a document under a certificate of mailing or certificate of transmission. This is consistent with current § 1.8.

Section 2.197(b) requires that if correspondence is timely mailed or transmitted, but not received in the Office, the party who filed the correspondence must inform the Office of the timely mailing or transmission within two months after becoming aware that the Office has no evidence of receipt of the correspondence. This does not change current practice. While current § 1.8(b)(1) requires that the party inform the Office of the timely mailing or transmission "promptly," § 2.146(d) requires that a petition for revival or reinstatement in a trademark case be filed within two months of the date that the party who filed the correspondence became aware that there was a problem with the filing date of the correspondence, unless a different deadline is specified elsewhere in the rules. Trademark Manual of Examining Procedure §§ 305.02(f), 306.05(d) and 1705.04.